



# Journal of the House

State of Indiana

115th General Assembly

Second Regular Session

Seventh Meeting Day

Thursday Afternoon

January 17, 2008

The House convened at 1:00 p.m. with Speaker B. Patrick Bauer in the Chair.

The Speaker read a prayer for health and well-being (printed November 20, 2007).

The Pledge of Allegiance to the Flag was led by Representative Bosma.

The Speaker ordered the roll of the House to be called:

Austin	Hinkle
Avery	Hoy
Bardon ☐	Kersey
Bartlett	Klinker
Battles	Knollman
Behning	Koch
Bell	L. Lawson
Bischoff	Lehe
Blanton	Leonard
Borders	Lutz ☐
Borror	Mays
Bosma	McClain
C. Brown	Micon
T. Brown	Moses
Buck	Murphy
Buell	Neese ☐
Burton	Niezgodski
Candelaria Reardon	Noe
Cheatham	Orentlicher
Cherry	Oxley
Cochran	Pelath
Crawford	Pflum
Crooks	Pierce
Crouch	Pond ☐
Davis	Porter
Day	Reske
Dembowski	Richardson
Dermody	Ripley
Dobis	Robertson
Dodge	Ruppel ☐
Duncan	Saunders
Dvorak	Simms
Eberhart	M. Smith
Elrod	V. Smith
Espich	Soliday
Foley	Stemler
Friend	Steuerwald
Frizzell	Stevenson
Fry	Stilwell
GiaQuinta	Stutzman
Goodin	Summers
Grubb	Thomas ☐
Gutwein	Thompson
E. Harris	Tincher
T. Harris	Torr
Herrell	Turner

Tyler  
Ulmer ☐  
VanDenburgh  
VanHaaften

Walorski  
Welch  
Wolkins  
Mr. Speaker

Roll Call 14: 93 present; 7 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

The House recessed until the fall of the gavel.

## RECESS

The House reconvened at 2:30 p.m. with the Speaker in the Chair.

## HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, January 22, 2008, at 9:00 a.m.

TYLER

The motion was adopted by a constitutional majority.

## INTRODUCTION OF BILLS

The following bills were read a first time by title and referred to the respective committees:

### HB 1087 — Burton

Committee on Roads and Transportation

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

### HB 1103 — Tincher

Committee on Roads and Transportation

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

### HB 1217 — Dvorak

Committee on Environmental Affairs

A BILL FOR AN ACT to amend the Indiana Code concerning health.

### HB 1246 — Austin

Committee on Education

A BILL FOR AN ACT to amend the Indiana Code concerning education.

### HB 1263 — Lehe, VanDenburgh

Committee on Ways and Means

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

### HB 1349 — Noe

Committee on Ways and Means

A BILL FOR AN ACT to amend the Indiana Code concerning the general assembly.

**HB 1353** — Knollman

Committee on Ways and Means

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1363** — Candelaria Reardon

Committee on Environmental Affairs

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

**HB 1364** — Turner, Welch, T. Brown

Committee on Insurance

A BILL FOR AN ACT to amend the Indiana Code concerning human services and to make an appropriation.

**HB 1371** — Behning

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

**HB 1372** — Behning

Committee on Elections and Apportionment

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

**HB 1380** — Lehe

Committee on Ways and Means

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1381** — Bosma

Committee on Local Government

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

**HB 1388** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1389** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1390** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1391** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1392** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1393** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1394** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1395** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1396** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1397** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1398** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1399** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1400** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1401** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1402** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1403** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1404** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1405** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1406** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1407** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1408** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**HB 1409** — Rules

Committee on Rules and Legislative Procedures

A BILL FOR AN ACT concerning the Indiana Code.

**INTRODUCTION OF JOINT RESOLUTIONS**

The following joint resolutions were read a first time by title and referred to the respective committees:

**HJR 8** — Turner, Cheatham, Stemler, Walorski

Committee on Rules and Legislative Procedures

A JOINT RESOLUTION proposing an amendment to Article 1 of the Indiana Constitution by adding a new section concerning the definition of marriage.

*Be it resolved by the General Assembly  
of the State of Indiana:*

SECTION 1. The following amendment to the Constitution of the State of Indiana, which was agreed to by the One Hundred Fourteenth General Assembly and referred to this General Assembly for reconsideration and agreement, is agreed to by this the One Hundred Fifteenth General Assembly of the State of Indiana.

SECTION 2. ARTICLE 1 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS: **Section 38. (a) Marriage in Indiana consists only of the union of one man and one woman.**

**(b) This Constitution or any other Indiana law may not be construed to require that marital status or the legal incidents of marriage be conferred upon unmarried couples or groups**

## HJR 9 — Rules

Committee on Rules and Legislative Procedures

A JOINT RESOLUTION proposing an amendment to the Indiana Constitution.

*Be it resolved by the General Assembly  
of the State of Indiana:*

SECTION 1. The following amendment to the Constitution of the State of Indiana is proposed and agreed to by this, the 115th General Assembly of the State of Indiana, and is referred to the next General Assembly for reconsideration and agreement.

SECTION 2. **The Constitution of the State of Indiana is amended.**

## HJR 10 — Rules

Committee on Rules and Legislative Procedures

A JOINT RESOLUTION proposing an amendment to the Indiana Constitution.

*Be it resolved by the General Assembly  
of the State of Indiana:*

SECTION 1. The following amendment to the Constitution of the State of Indiana is proposed and agreed to by this, the 115th General Assembly of the State of Indiana, and is referred to the next General Assembly for reconsideration and agreement.

SECTION 2. **The Constitution of the State of Indiana is amended.**

## HJR 11 — Rules

Committee on Rules and Legislative Procedures

A JOINT RESOLUTION proposing an amendment to the Indiana Constitution.

*Be it resolved by the General Assembly  
of the State of Indiana:*

SECTION 1. The following amendment to the Constitution of the State of Indiana is proposed and agreed to by this, the 115th General Assembly of the State of Indiana, and is referred to the next General Assembly for reconsideration and agreement.

SECTION 2. **The Constitution of the State of Indiana is amended.**

## RESOLUTIONS ON FIRST READING

### House Concurrent Resolution 6

Representatives V. Smith, Bartlett, C. Brown, Candelaria Reardon, Crawford, E. Harris, Mays, Porter, and Summers introduced House Concurrent Resolution 6:

A CONCURRENT RESOLUTION commemorating Dr. Martin Luther King, Jr. Day.

*Whereas, Dr. Martin Luther King, Jr. was one of our nation's truly great leaders;*

*Whereas, Dr. Martin Luther King, Jr. had many dreams: of an America where "justice rolls down like waters and righteousness like a mighty stream"; of an America where neighbors look "beyond the external accidents and discern those inner qualities that make all men human and, therefore, brothers"; of a time when "this nation will rise up and live out the true meaning of its creed, 'we hold these truths to be self evident: that all men are created equal'";*

*Whereas, Dr. Martin Luther King, Jr. had a dream for a better society, a dream where "the sons of former slaves and the sons of former slave owners will be able to sit together at the table of brotherhood";*

*Whereas, Dr. Martin Luther King, Jr. believed that liberty, justice, and freedom were the "inalienable rights" of all men, women, and children;*

*Whereas, Dr. Martin Luther King, Jr. was a spiritual man who believed all people were created equal in the sight of God and believed in the dignity and self-worth of every individual;*

*Whereas, Dr. Martin Luther King, Jr. gave his life defending his beliefs;*

*Whereas, The visions of Dr. Martin Luther King, Jr. continue to bring hope and inspiration to people of all nations;*

*Whereas, Dr. Martin Luther King, Jr., a recipient of the Nobel Prize, is a national hero whose birthday is celebrated as a day of peace, love, and understanding by a grateful nation; and*

*Whereas, All Americans must continue to gather inspiration from the life of Dr. Martin Luther King, Jr. and strive to realize his dreams: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That it is fitting and proper that Dr. Martin Luther King, Jr. be remembered and recognized by future generations of Americans.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the family of Dr. Martin Luther King, Jr.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Rogers, S. Smith, Howard, and Breaux.

The House recessed until the fall of the gavel.

## RECESS

The House reconvened at 4:00 p.m. with the Speaker in the Chair.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1001, has had the same under consideration and begs leave to report that it do pass to second reading.

Committee Vote: yeas 24, nays 0.

CRAWFORD, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1026, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning funerals and cemeteries and to make an appropriation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 23-14-48-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The owner of each cemetery shall provide for the creation and establishment of an irrevocable perpetual care fund.

(b) The principal of a perpetual care fund established under this section shall permanently remain intact, except as provided in this chapter. The principal shall be known as the "perpetual care fund" or "endowment care fund" of the cemetery. **The owner of a cemetery shall pay to the perpetual care fund or endowment care fund any amount necessary to maintain the principal in the fund.**

(c) Fifty percent (50%) of any appreciation of the principal of the fund may be withdrawn annually not more than forty-five (45) days after the end of the fund's fiscal year.

(d) Any income earned by the fund during the fiscal year may be withdrawn quarterly during the fund's fiscal year.

(e) The income from a fund established under this section and any withdrawal of the appreciation of the principal under subsection (c) shall be devoted to the perpetual care of the cemetery.

(f) The fund established by this chapter is not subject to attachment by a creditor unless the underlying debt was incurred for the perpetual care or endowment care (as defined in IC 23-14-33-30) of the cemetery for which the fund was established.

SECTION 2. IC 23-14-48-3, AS AMENDED BY P.L.65-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) A perpetual care fund shall be established under this chapter as follows:

(1) In the case of a cemetery for earth burials, by the application and payment to the perpetual care fund of an amount at least equal to:

(A) fifteen percent (15%) of the sale price; or

(B) eighty cents (\$0.80) per square foot of area;

of each burial plot sold or transferred, whichever is greater. (2) In the case of a community or public mausoleum, or community or public garden crypt, by the application and payment to the perpetual care fund of an amount at least equal to:

(A) eight percent (8%) of the sale price; or

(B) one hundred dollars (\$100) per crypt sold or transferred;

whichever is greater.

(3) In the case of a community columbarium, by the application and payment to the perpetual care fund of an amount at least equal to twenty dollars (\$20) per niche sold or transferred.

(b) From the sale price, any payment on the sale price, or in a nonmonetary transfer, the owner shall pay an amount in proportion to the requirements of subsection (a)(1) through (a)(3) to the care fund. The payment must be in cash and shall be deposited with the ~~custodian or~~ trustee of the fund:

(1) not more than thirty (30) days after the end of the month in which payments on the sale are received; or

(2) not more than thirty (30) days after the end of the month in which there was a transfer which did not involve a sale.

(c) The payments required by this section are required to be paid only on the original sale or transfer and not again for any subsequent resale or transfer of the same ground interment rights, crypt, or niche.

(d) The ~~custodian or~~ trustee of a fund established under this chapter must keep the fund segregated from any other fund or account belonging to the owner of the cemetery.

SECTION 3. IC 23-14-48-7, AS AMENDED BY P.L.65-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) Not more than ninety (90) days after the end of the fiscal year of a cemetery to which this chapter applies, the custodian or trustee of the perpetual care fund of the cemetery shall prepare and file with the owner of the cemetery a detailed accounting and report of the perpetual care fund for the preceding fiscal year. The report:

(1) must include, among other things, a properly itemized listing of the securities in which the funds are invested; and (2) shall be available for inspection and copying at all times by any owner of or holder of a burial right in the cemetery at the usual place at which the regular business of the cemetery is transacted.

(b) Not more than one hundred five (105) days after the end of the fiscal year of a cemetery to which this chapter applies, the ~~custodian or~~ trustee of the perpetual care fund of the cemetery shall file the report required under subsection (a) with the state board of funeral and cemetery service.

(c) The state board of funeral and cemetery service may audit or order an audit of the perpetual care fund of a cemetery if the state board of funeral and cemetery service determines that the ~~custodian or~~ trustee of the perpetual care fund is not complying with the requirements set forth in subsections (a) and (b). The cemetery that is the subject of the audit shall pay all costs associated with the audit.

(d) **The owner of a cemetery shall maintain a report required by this section for the longer of:**

(1) **ten (10) years; or**

(2) **three (3) years after the date the owner sells or otherwise transfers the cemetery.**

SECTION 4. IC 23-14-77 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

**Chapter 77. Containers Used to Encase Human Remains**

**Sec. 1. A person who sells or otherwise furnishes to another person a container that:**

(1) **will be used to encase the remains of a deceased individual; and**

(2) **is not airtight and watertight;**

**shall inform the other person in writing that the container is not airtight and watertight before the person sells or otherwise furnishes the container to the other person.**

**Sec. 2. A person who violates this chapter commits a Class B infraction."**

Page 1, line 3, delete "JULY 1, 2008]; and insert "JANUARY 1, 2009]:".

Page 1, line 13, delete "the death of the person for whose funeral" and insert ":

(1) **the death of the settler of the contract; and**

(2) **that the beneficiary fully performed all funeral and burial services provided for in the contract;**

**through the use of documentation required under rules adopted by the state board of funeral and cemetery service established by IC 25-15-9-1 commits a Class A infraction."**

Page 1, delete line 14, begin a new paragraph and insert:

"SECTION 6. IC 30-2-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The contract under which funds are accepted under this chapter must be in writing and contain, as a minimum, the following provisions:

(1) Details of the professional services, facilities,

equipment, and a description of merchandise to be provided by the beneficiary. **If the merchandise includes a container that:**

**(A) will be used to encase the remains of a deceased individual; and**

**(B) is not airtight and watertight;**

**the details must include a written statement indicating that the container is not airtight and watertight.**

(2) A provision that the beneficiary may provide merchandise of equal or better quality if the merchandise contracted for is no longer available at the time the merchandise is to be provided.

(3) The place of the funeral and the place of the burial or other final disposition to be made of the decedent.

(4) An acknowledgment by the settlor that ~~he~~ **the settlor** understands the irrevocable nature of the trust.

(5) A provision for reasonable adjustment of the services, or cost of services, if the body is transported a distance greater than twenty-five (25) miles to the place of funeral or the place of burial or final disposition and transportation of a distance in excess of twenty-five (25) miles was not contemplated at the time of the execution of the contract.

(6) A provision for full payment of the contract amount by the settlor, a description of the manner in which the funds are to be deposited, and a statement that the interest will accrue to the trust account and a further statement that the principal and interest earned shall inure to the beneficiary to cover all the costs incident to the beneficiary's performance of the contract, any excess to be refunded to the estate of the settlor or to the heirs at law.

(7) The settlor's name, address, and social security number.

(8) The date that the funeral trust is executed by the settlor.

(9) The trustee's name and address.

(10) The beneficiary's license number issued by the state board of funeral service.

(11) A provision that except under the circumstances described in subsection (12), only the settlor may change the beneficiary, that ~~he~~ **the settlor** may make the change at any time, and that the change is not effective until written notification is given to the original beneficiary.

(12) A provision that allows the state board of funeral service to change the beneficiary by naming a funeral home as new beneficiary if the original beneficiary becomes deceased, dissolved, terminated, or otherwise loses beneficiary status as a licensee of the state board, and the settlor or ~~his~~ **the settlor's** guardian or personal representative fails to select a qualified beneficiary.

Page 1, line 17, delete "JULY 1, 2008]:" and insert "JANUARY 1, 2009]:".

Page 2, line 8, delete "in the absence of satisfactory evidence that the" and insert **"without verifying:**

**(1) the death of the settlor of the contract; and**

**(2) that the beneficiary fully performed all funeral and burial services provided for in the contract;**

**through the use of documentation required under rules adopted by the state board of funeral and cemetery service established by IC 25-15-9-1 commits a Class A infraction."**

Page 2, delete lines 9 through 10, begin a new paragraph and insert:

"SECTION 8. IC 30-2-13-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12.5. (a) This section applies to the following contracts entered into or established under this chapter after June 30, 1999:

(1) Contracts for prepaid services.

(2) Contracts for prepaid merchandise.

(3) Trusts or escrows established to hold consideration paid for services or merchandise subject to a contract entered into under this chapter.

(b) A contract between a purchaser and a seller must:

(1) specify that the consideration for the contract is:

(A) cash, payable either in a lump sum or in installments; or

(B) an insurance policy that is:

(i) newly issued in conjunction with and integral to the contract;

(ii) issued previously in a transaction separate and distinct from the contract; or

(iii) both.

If a contract is funded with an insurance policy, the ownership of the policy must be irrevocably assigned to a trustee, and the seller may not borrow against, pledge, withdraw, or impair the cash value of the policy;

(2) specify that only the purchaser, acting by written notice to the seller, may revoke the contract within thirty (30) days after the date the contract is signed by the purchaser and the seller and that the contract becomes irrevocable upon the expiration of the thirty (30) day period;

(3) specify that, if the contract is revoked, the seller shall refund and return to the purchaser, without interest, the cash or insurance policy used to fund the contract;

(4) specify that not more than thirty (30) days after the contract is signed by the purchaser and the seller, the whole of the cash or insurance policy serving as consideration for the contract must be deposited into a trust or escrow authorized by subsection (c) or (d). However, a seller may elect to serve as trustee of a previously existing life insurance contract;

(5) except as provided in subsection (f), unconditionally require that the seller shall deliver all services or merchandise, or both, specified in the contract and receive as consideration for the delivery of services or merchandise, or both, only the cash or insurance policy held in trust or escrow without regard to the solvency of the insurer or the adequacy or loss in value of any cash deposit or insurance policy used to fund a contract;

(6) except as provided in subsection (f), prohibit a seller from imposing additional charges to recover any shortage or difference between the retail prices for services or merchandise, or both, in effect on the date of delivery of the services or merchandise, or both, and the value of the trust or escrow applicable to the contract on the date of delivery;

(7) require that a seller accepting the transfer of a contract permitted under section 13 of this chapter shall honor the requirements and obligations of the contract;

(8) permit the seller to assess a finance charge on a contract sold on an installment basis and require that the seller disclose to the purchaser the applicable requirements of federal and Indiana law;

(9) provide that the contract must comply with the following requirements:

(A) The contract must be made in a form that is:

(i) written in clear and understandable language; and

(ii) printed in a size and style of type that is easy to read.

(B) The contract must describe the services, merchandise, or cash advance items being purchased. **If the merchandise includes a container that:**

**(i) will be used to encase the remains of a deceased individual; and**

**(ii) is not airtight and watertight;**

**the contract must include a written statement indicating that the container is not airtight and watertight.**

(C) The contract must identify the following by name, address, and telephone number:

(i) The seller.

(ii) The purchaser.

- (iii) The contract beneficiary if the beneficiary is an individual other than the purchaser.
- (D) The contract must contain the seller's certificate of authority number and the date of the contract.
- (E) The contract must provide that if an item of the particular services or merchandise specified in the contract is unavailable at the time of delivery, the seller shall deliver services or merchandise similar in style, quality, and of equal value to the unavailable item in the place of the item.
- (F) The contract must disclose the precise manner in which the contract is to be funded by:
  - (i) identifying the consideration for the contract;
  - (ii) identifying the name, number, if known, and issuer of any insurance policy used to fund the contract; and
  - (iii) including the identity and location of the trustee or escrow agent, **acting as fiduciary**, who is to hold the trust or escrow.
- (G) The contract must disclose that the seller reserves the right to assess an extra charge for:
  - (i) transportation costs;
  - (ii) services or merchandise incurred in the transport of human remains a distance greater than twenty-five (25) miles from the seller's place of business; and
  - (iii) service charges necessarily incident to the transport of human remains and in excess of those service charges specified in the contract.
- (H) The contract must disclose the following:
  - (i) The amount, if any, the seller has elected to receive under subsection (c)(1) or subsection (d)(6).
  - (ii) That a commission or fee may be paid to the seller or the seller's agent on a contract funded under subsection (b)(1)(B)(i).
- (10) specify that a purchaser has the unrestricted right to designate one (1) or more successor sellers to whom the contract may be transferred under section 13 of this chapter, but that such a transfer is effective only with the consent of the newly designated seller and upon the fulfillment of the other requirements of section 13 of this chapter;
- (11) specify that if cash advance items are funded in the contract, the seller agrees to deliver the cash advance items under one (1) of the following alternatives:
  - (A) Delivery is unconditionally guaranteed at the option of the seller.
  - (B) Delivery is conditionally guaranteed for a seller and will be equal in value to the total value of the trust or escrow account maintained for the purchaser multiplied by the percentage of the total original contract price represented by cash advance items;
- (12) specify that a release from trust or escrow shall occur only upon the seller's delivery of services or merchandise, or both;
- (13) permit, at the option of the seller, the incorporation of the trust or escrow language contained in subsection (c) or (d) directly into the contract;
- (14) prohibit the seller from charging any service, transaction, or other type of fee or charge unless the fee is:
  - (A) authorized under subsections (c)(1) and (d)(6) and section 27 of this chapter; or
  - (B) included within the definitions contained in section 8 or 11.5 of this chapter.
- (c) A trust account authorized and established under this chapter must do all of the following:
  - (1) Be irrevocable and require either of the following:
    - (A) The seller deposit the insurance policy used to fund the contract into the trust account. However, for contracts funded after June 30, 1995, with a previously

issued insurance policy, the seller may serve instead of a trustee if the seller is qualified to do so under section 11(c) of this chapter.

- (B) The seller deposit the cash used to fund the contract into the trust account. However, as consideration for the sale of the contract and any expense incurred by the seller in conjunction with the sale of the contract, the contract must permit the seller to notify, within a ten (10) day period following the date the contract becomes irrevocable, the trustee of its election to receive only up to ten percent (10%) of the seller's original contract price for services or merchandise, or both.
- (2) Designate the seller as the beneficiary of the trust.
- (3) Designate a trustee qualified under this chapter and authorize the trustee to assess the charges authorized under section 18 of this chapter.
- (4) Require that a separate account be maintained in the name of each purchaser.
- (5) Require that any interest, dividend, or accumulation in the account be reinvested and added to the principal.
- (6) Permit the assets of the several, separate accounts to be commingled for investment purposes.
- (7) Require that on receipt of the seller's proof of delivery of services or merchandise the trustee shall remit to the seller the full amount in trust applicable to the purchaser's contract and all of the accumulated interest.
- (8) Permit the seller to retain the remaining amount if the amount in the trust account is greater than the seller's total current retail price of all services and merchandise subject to the contract at the time of delivery of all services or merchandise subject to the contract. However, in the case of a contract funded under subsection (b)(1)(B)(ii), the seller may not retain the remaining amount but must pay the remaining amount to the entity or individual designated by the insured as the beneficiary of the death benefit proceeds not later than sixty (60) days after the receipt and deposit of the proceeds by the seller. The seller may not qualify as a beneficiary of the remaining amount or the insurance death benefit. In the case of all other contracts funded under this chapter, the seller may opt to return the remaining amount to the individual designated by the purchaser to receive the remainder or to the purchaser's estate.
- (9) Require the seller to pay to the trust established under this chapter an amount necessary to restore the trust to the original contract value of all the services or merchandise under the contracts, or parts of the contracts, that remain undelivered, minus any amount the seller is allowed to receive under subdivision (1)(B).**
- (d) An escrow account authorized and established under this chapter must do all of the following:
  - (1) Be irrevocable and require that the seller deposit all cash or the insurance policy used to fund the contract into the escrow account.
  - (2) Designate the seller as the recipient of the escrow funds.
  - (3) Designate an escrow agent, **acting as fiduciary**, qualified under this chapter to act as escrow agent **acting as fiduciary** and authorize the escrow agent **acting as fiduciary** to assess the charges authorized under section 18 of this chapter.
  - (4) Require that the escrow account be maintained in the name of the seller and serve as a depository for all cash or insurance policies used to fund contracts sold by the seller.
  - (5) Permit the investment of and commingling of cash for investment purposes.
  - (6) Permit the seller to receive an administrative or service fee at the option of the seller. The seller may opt to receive the fee after the day following the date the contract

becomes irrevocable. The amount of the fee may not exceed ten percent (10%) of the seller's total contract price for services or merchandise or both.

(7) Require that on delivery of services or merchandise, the escrow agent shall remit to the seller an amount equal to:

(A) the seller's original retail price as set forth in the contract for the services or merchandise delivered; minus

(B) the amount, if any, received by the seller under subdivision (6).

(8) Permit the seller to receive monthly payments of the interest earned and the appreciation in the value of the escrow assets to the extent that the total value of the escrow after a payment authorized under this subdivision is not less than:

(A) the original contract value of all services or merchandise under the contracts, or parts of the contracts that remain undelivered; minus

(B) the amounts, if any, received by the seller under subdivision (6).

**(9) Require the seller to pay to the escrow account established under this chapter an amount necessary to restore the escrow account to the original contract value of all the services or merchandise under the contracts, or parts of the contracts, that remain undelivered, minus any amount the seller is allowed to receive under subdivision (6).**

(e) A trust account or an escrow account established under this section must contain a concise written description of all the provisions of this chapter that apply to the account.

(f) A seller's guarantee of delivery of all services or merchandise subject to a contract sold by the seller or transferred to a seller is unconditional except in the instance of one (1) of the following circumstances:

(1) An installment contract funded with cash or an insurance policy issued in conjunction with the contract is guaranteed to the extent of the cash paid or death benefits available at the time of death of the individual for whom services or merchandise are to be provided.

(2) A contract funded with an insurance policy issued previously and not in conjunction with the contract is guaranteed to the extent of the death benefit proceeds available at the time of the individual for whom services or merchandise are to be provided.

(3) A contract funded with an insurance policy issued in conjunction with the contract, but having a limited or qualified death benefit period, is guaranteed to the extent of the death benefit proceeds available at the time of the death of the individual for whom services or merchandise are to be provided.

(4) A transportation expense incurred by the seller while transporting human remains a distance greater than twenty-five (25) miles from the seller's place of business, plus any charge for services or merchandise necessarily incident to the transport of the human remains.

(5) The seller agrees to conditionally guarantee the delivery of cash advance items under subsection (b)(11)(B).

In the instance of unguaranteed delivery, the seller may reduce the value or number of the services or merchandise subject to the contract or cash advance items delivered or deliver the services or merchandise in full on the condition that the seller receives adequate consideration to compensate the seller for the unguaranteed part of the contract.

(g) The entire value of an escrow or trust established under this chapter may not be considered as a resource in determining a person's eligibility for Medicaid under IC 12-15-2-17.

(h) This chapter does not prohibit a purchaser from immediately making the trust or escrow required under this chapter irrevocable and assigning ownership of an insurance

policy used to fund a contract to obtain favorable consideration for Medicaid, Supplemental Security Income, or another public assistance program under federal or state law.

(i) A seller may not accept or deposit into a trust or escrow account cash, an insurance policy, or any other property as consideration for services or merchandise to be provided in the future except in conjunction with a contract authorized by this chapter.

SECTION 9. IC 30-2-13-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) Notwithstanding section 10 of this chapter, as used in this section, "seller" means an individual, a person doing business as a sole proprietor, a firm, a corporation, an association, a limited liability company, or a partnership:

(1) contracting to provide prepaid or at-need services or merchandise, or both, to a named individual; and

(2) holding a certificate of authority under this chapter.

(b) A purchaser has the option to designate one (1) or more successor sellers to provide:

(1) prepaid services or merchandise; or

(2) at-need services or merchandise.

A purchaser who exercises the purchaser's option to designate a successor seller shall give written notice of the designation to the currently designated seller, successor seller, and trustee or escrow agent. Only a purchaser may exercise the option to designate a new seller. However, the designation is ineffective unless the newly designated seller consents to the designation.

(c) If a purchaser designates a successor seller, and the successor seller consents to the designation, not less than thirty (30) days after receiving notice under subsection (b), the seller who was previously designated shall:

(1) relinquish and transfer all rights under the contract;

(2) transfer to the successor the contract; and

(3) release from trust or escrow for subsequent deposit to the successor seller's trust or escrow all property being held as consideration for the contract, together with an itemized statement disclosing all services or merchandise delivered as of the date of transfer.

**However, a seller who was previously designated to provide the services or merchandise shall comply with section 30 of this chapter.** The seller and the successor sellers shall cooperate to ensure that there is no forfeiture or loss of a right or benefit under the contract and that all contract terms are fulfilled. If similar prepaid or at-need services or merchandise are purchased from one (1) or more sellers, the contract that is first in time prevails and is valid.

(d) The trustee shall confirm the transfer to the seller, successor seller, and purchaser by written notice confirming the identity and value of the property transferred.

(e) It is a violation of this chapter for a seller to knowingly induce a purchaser to breach an existing contract that provides for prepaid or at-need services or merchandise.

(f) This section does not abrogate the requirements of IC 25-15-4 concerning contracting for or delivering at-need services and merchandise.

(g) It is a violation of this chapter for a seller to knowingly:

(1) induce a purchaser who has the right to designate a successor seller under subsection (b) to:

(A) make a designation of a successor seller;

(B) breach an existing contract for prepaid or at-need services or merchandise; or

(C) enter into an at-need or prepaid contract calling for the delivery of similar services or merchandise; or

(2) offer a monetary inducement or the exchange or substitution of free or discounted services or merchandise in an effort to induce a purchaser to effect a change in the designation of a seller of prepaid or at-need services or merchandise.

(h) It is a violation of this chapter for a seller to provide free

or discounted burial rights:

- (1) as an inducement or as consideration for the transfer of a contract; or
- (2) in an effort to induce a purchaser to effect a change in the designation of a seller of prepaid or at-need services or merchandise.

SECTION 10. IC 30-2-13-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 30. (a) The seller shall maintain accurate records, books, and accounts for each contract sold under this chapter containing the following:

- (1) Copies of all contracts.
- (2) The dates of all contracts.
- (3) The amounts paid and received under each contract.
- (4) The complete name, address, and identification of all parties to each contract.

(b) The seller shall maintain at the seller's principal Indiana business address complete records of all transactions under this chapter that involve the seller. The records may be audited and examined by the board at any reasonable time.

(c) The seller shall maintain all records required by this section for ~~at least the longer of:~~

- (1) **ten (10) years; or**
- (2) three (3) years after the date of full performance of a contract.

The records are business records and customer lists within the meaning of IC 24-2-3.

**(d) The requirements of this section apply to a seller, a successor seller, and a seller who was previously designated to provide services or merchandise to a purchaser."**

Page 2, line 12, delete "JULY 1, 2008]: and insert "JANUARY 1, 2009]:".

Page 2, line 40, after "deposited" insert **"through the use of documentation required under rules adopted by the state board of funeral and cemetery service established by IC 25-15-9-1"**.

Page 3, after line 9, begin a new paragraph and insert:

"SECTION 13. IC 30-4-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A trust is a fiduciary relationship between a person who, as trustee, holds title to property and another person for whom, as beneficiary, the title is held.

(b) Subject to IC 30-4-2-8, the same person may be both the trustee and a beneficiary.

(c) The rules of law contained in this article do not apply to:

- (1) trusts created by operation of law;
- (2) business trusts (as defined in IC 23-5-1);
- (3) security instruments and creditor arrangements;
- (4) voting trusts;
- (5) religious, educational, and cultural institutions, created in other than trust form, except with respect to the application of IC 30-4-5-18 through IC 30-4-5-23 as those sections relate to the maintenance of federal income tax exemption privileges to which an institution is entitled;
- (6) corporations and other entities governed by IC 23-17, except with respect to IC 30-4-5-18 through IC 30-4-5-23 as those sections relate to the maintenance of federal income tax exemption privileges to which a corporation or other entity is entitled;
- (7) **except as provided in this article for trusts for a benevolent public purpose:**

- (A) prepaid funeral plans;
- ~~(B)~~ **(B)** trusts for the care and upkeep of cemeteries; and
- ~~(C)~~ **(C)** agreements to furnish funeral services; and
- ~~(D)~~ **(D)** trusts created or authorized by statute other than this article.

(d) IC 30-4-3-2(a) applies to an employee benefit trust that meets the requirements set forth in IC 30-4-3-2(c). However, no other provision of this article applies to an employee benefit trust.

SECTION 14. IC 30-4-1-2, AS AMENDED BY P.L.238-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this article:

- (1) "Adult" means any person eighteen (18) years of age or older.
- (2) "Affiliate" means a parent, descendant, spouse, spouse of a descendant, brother, sister, spouse of a brother or sister, employee, director, officer, partner, joint venturer, a corporation subject to common control with the trustee, a shareholder, or corporation who controls the trustee or a corporation controlled by the trustee other than as a fiduciary, an attorney, or an agent.
- (3) "Beneficiary" has the meaning set forth in IC 30-2-14-2.
- (4) "Breach of trust" means a violation by the trustee of any duty which is owed to the settlor or beneficiary.
- (5) "Charitable trust" means a trust in which all the beneficiaries are the general public or organizations, including trusts, corporations, and associations, and that is organized and operated wholly for religious, charitable, scientific, public safety testing, literary, or educational purposes. The term does not include charitable remainder trusts, charitable lead trusts, pooled income funds, or any other form of split-interest charitable trust that has at least one (1) noncharitable beneficiary.
- (6) "Court" means a court having jurisdiction over trust matters.
- (7) "Income", except as otherwise stated in a trust agreement, has the meaning set forth in IC 30-2-14-4.
- (8) "Income beneficiary" has the meaning set forth in IC 30-2-14-5.
- (9) "Inventory value" means the cost of property to the settlor or the trustee at the time of acquisition or the market value of the property at the time it is delivered to the trustee, or the value of the property as finally determined for purposes of an estate or inheritance tax.
- (10) "Minor" means any person under the age of eighteen (18) years.
- (11) "Person" has the meaning set forth in IC 30-2-14-9.
- (12) "Personal representative" means an executor or administrator of a decedent's or absentee's estate, guardian of the person or estate, guardian ad litem or other court appointed representative, next friend, parent or custodian of a minor, attorney in fact, or custodian of an incapacitated person (as defined in IC 29-3-1-7.5).
- (13) "Principal" has the meaning set forth in IC 30-2-14-10.
- (14) "Qualified beneficiary" means:
  - (A) a beneficiary who, on the date the beneficiary's qualification is determined:
    - (i) is a distributee or permissible distributee of trust income or principal;
    - (ii) would be a distributee or permissible distributee of trust income or principal if the interest of the distributee described in item (i) terminated on that date;
    - (iii) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date;
    - (iv) has sent the trustee a request for notice;
    - (v) is a charitable organization expressly designated to receive distributions under the terms of a charitable trust;
    - (vi) is a person appointed to enforce a trust for the care of an animal under IC 30-4-2-18; or
    - (vii) is a person appointed to enforce a trust for a noncharitable purpose under IC 30-4-2-19; or
  - (B) the attorney general, if the trust is a charitable trust



having its principal place of administration in Indiana.

(15) "Remainderman" means a beneficiary entitled to principal, including income which has been accumulated and added to the principal.

(16) "Settlor" means a person who establishes a trust including the testator of a will under which a trust is created.

(17) "Trust estate" means the trust property and the income derived from its use.

(18) "Trust for a benevolent public purpose" means a charitable trust (as defined in subdivision (5)), a split-interest trust (as defined in Section 4947 of the Internal Revenue Code), **a perpetual care fund or an endowment care fund established under IC 23-14-48-2, a prepaid funeral plan or funeral trust established under IC 30-2-9, a funeral trust established under IC 30-2-10, a trust or an escrow account created from payments of funeral, burial services, or merchandise in advance of need described in IC 30-2-13, and any other form of split-interest charitable trust that has both charitable and noncharitable beneficiaries, including but not limited to charitable remainder trusts, charitable lead trusts, and charitable pooled income funds.**

(19) "Trust property" means property either placed in trust or purchased or otherwise acquired by the trustee for the trust regardless of whether the trust property is titled in the name of the trustee or the name of the trust.

(20) "Trustee" has the meaning set forth in IC 30-2-14-13.

SECTION 15. IC 30-4-5.5-1, AS ADDED BY P.L.245-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) This section applies ~~if~~ **to the following:**

(1) A trustee of a benevolent trust, ~~does any of the following: including a perpetual care fund or endowment care fund established under IC 23-14-48 or a prepaid funeral trust or escrow account established under IC 30-2-9, IC 30-2-10, or IC 30-2-13.~~

(2) A cemetery owner.

(3) A funeral home.

(4) A beneficiary of a contract entered into under IC 30-2-9.

(5) A seller (as defined in IC 30-2-13-10) under IC 30-2-13.

(6) Any other person that holds a perpetual care fund, an endowment care fund, or a prepaid funeral trust fund.

(b) A person described in subsection (a) may not do any of the following:

(1) ~~Commits~~ **Commit** a breach of trust.

(2) ~~Violates~~ **Violate** the mandate of a charitable trust.

(3) ~~Violates~~ **Violate** a duty listed in this article.

(4) **Fail to comply with a requirement or prohibition set forth in any of the following:**

(A) IC 23-14-48.

(B) IC 23-14-48.5.

(C) IC 23-14-49.

(D) IC 23-14-51.

(E) IC 30-2-9.

(F) IC 30-2-10.

(G) IC 30-2-13.

(H) IC 30-4.

~~(b)(c)~~ **(c)** The attorney general may petition a court to issue one (1) or more of the following remedies for ~~an action a breach, violation, or failure~~ enumerated in subsection ~~(a)(b)~~ **(b):**

(1) Injunctive relief.

(2) Appointment of temporary or permanent receivers.

(3) Permanent removal of trustees.

(4) Appointment of permanent replacement trustees subject to court approval.

A remedy under this subsection is in addition to any other remedy.

~~(b)(c)~~ **(d)** The attorney general may seek a remedy listed in subsection ~~(b)(c)~~ **(c)** against a trustee, ~~or a trust, or any other person described in subsection (a) for a breach, violation, or failure~~ enumerated in subsection (b).

**(e)** A court in which an action is brought under this section may do the following:

(1) Issue a temporary restraining order, preliminary injunction, or permanent injunction.

(2) Order a trustee, an escrow agent, a seller (as defined in IC 30-2-13-10), a cemetery owner, or a funeral home to pay restitution or money unlawfully received or retained from purchasers and deposit the restitution or money into an escrow account for distribution to aggrieved purchasers.

(3) Order a trustee, an escrow agent, a seller (as defined in IC 30-2-13-10), a cemetery owner, or a funeral home to reimburse the state for reasonable costs incurred by the attorney general in investigating and prosecuting a violation of this section.

(4) Impose civil penalties.

(5) Provide for the appointment of a receiver.

SECTION 16. [EFFECTIVE UPON PASSAGE] (a) The state board of funeral and cemetery service established by IC 25-15-9-1 shall adopt rules under IC 4-22-2 to implement:

(1) IC 30-2-9-7(c);

(2) IC 30-2-10-9(c); and

(3) IC 30-2-13-38(e);

**all as added by this act, before January 1, 2009.**

**(b) This SECTION expires January 2, 2009.**

SECTION 17. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the probate code study commission established by IC 2-5-16-2.

(b) The commission shall study and make findings and recommendations concerning the following:

(1) Whether current law is adequate to:

(A) protect money and property placed in cemetery perpetual care trusts and preneed funeral trusts; and

(B) ensure that the money is used for its intended purposes.

(2) Whether additional restrictions, prohibitions, or rules are needed concerning cemetery perpetual care trusts and preneed funeral trusts to sufficiently protect consumers and the general public.

(3) Whether it is appropriate to revise Indiana law concerning funeral and cemetery trusts.

(4) Approaches used by other states to regulate funeral and cemetery trusts, trustees, funeral service and merchandise sellers, funeral home owners and operators, and cemetery owners.

(5) Any other matter concerning funeral and cemetery trusts the commission considers appropriate.

(c) The commission shall report its finding and recommendations to the legislative council in an electronic format under IC 5-14-6 not later than November 1, 2008.

**(d) This SECTION expires November 2, 2008.**

SECTION 18. **An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1026 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

HOY, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1034, has had the same under consideration and begs leave to report the same back to the

House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 22-9-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) It is the public policy of the state to provide all of its citizens equal opportunity for education, employment, access to public conveniences and accommodations, and acquisition through purchase or rental of real property, including but not limited to housing, and to eliminate segregation or separation based solely on race, religion, color, sex, **age**, disability, national origin or ancestry, since such segregation is an impediment to equal opportunity. Equal education and employment opportunities and equal access to and use of public accommodations and equal opportunity for acquisition of real property are hereby declared to be civil rights.

(b) The practice of denying these rights to properly qualified persons by reason of the race, religion, color, sex, **age**, disability, national origin, or ancestry of such person is contrary to the principles of freedom and equality of opportunity and is a burden to the objectives of the public policy of this state and shall be considered as discriminatory practices. The promotion of equal opportunity without regard to race, religion, color, sex, **age**, disability, national origin, or ancestry through reasonable methods is the purpose of this chapter.

(c) It is also the public policy of this state to protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders, and lending institutions from unfounded charges of discrimination.

(d) It is hereby declared to be contrary to the public policy of the state and an unlawful practice for any person, for profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, religion, color, sex, **age**, disability, national origin, or ancestry.

(e) The general assembly recognizes that on February 16, 1972, there are institutions of learning in Indiana presently and traditionally following the practice of limiting admission of students to males or to females. It is further recognized that it would be unreasonable to impose upon these institutions the expense of remodeling facilities to accommodate students of both sexes, and that educational facilities of similar quality and type are available in coeducational institutions for those students desiring such facilities. It is further recognized that this chapter is susceptible of interpretation to prevent these institutions from continuing their traditional policies, a result not intended by the general assembly. Therefore, the amendment effected by Acts 1972, P.L.176, is desirable to permit the continuation of the policies described.

(f) This chapter shall be construed broadly to effectuate its purpose."

Page 2, line 27, after "sex," insert "**age**,".

Page 2, line 29, after "sex," insert "**age**,".

Page 2, line 36, after "sex," insert "**age**,".

Page 3, line 35, delete "No" and insert "**Except as provided in IC 22-9-2.1, no**".

Page 8, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 4. IC 22-9-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. Every contract to which the state or any of its political or civil subdivisions is a party, including franchises granted to public utilities, shall contain a provision requiring the contractor and ~~his~~ **the contractor's** subcontractors not to discriminate against any employee or applicant for employment to be employed in the performance of such contract, with respect to ~~his the employee's~~ hire, tenure, terms, conditions or privileges of employment or any

matter directly or indirectly related to employment, because of ~~his the employee's or applicant's~~ race, religion, color, sex, **age**, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of the contract."

Page 8, between lines 16 and 17, begin a new line double block indented and insert:

"**(E) age**;".

Page 8, line 17, delete "(E)" and insert "**(F)**".

Page 8, line 18, delete "(F)" and insert "**(G)**".

Page 8, line 19, delete "(G)" and insert "**(H)**".

Page 11, line 16, delete ":".

Page 11, line 17, delete "(1)".

Page 11, line 17, delete "; or".

Page 11, delete line 18.

Page 11, run in lines 16 through 19.

Page 11, line 25, delete ":".

Page 11, line 26, delete "(1)".

Page 11, line 26, delete "if the claim is filed with the" and insert ".".

Page 11, run in lines 25 through 26.

Page 11, delete lines 27 through 42.

Page 12, line 3, delete "(a)".

Page 12, line 5, delete "is transferred to the" and insert "**shall be adjudicated by the commissioner of labor**".

Page 12, delete lines 6 through 11.

Renumber all SECTIONS consecutively.

(Reference is to HB 1034 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 3.

NIEZGODSKI, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred House Bill 1045, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 13, delete "structural" and insert "**registered professional**".

Page 4, line 16, delete "Travel" and insert "**Upon request by county officials, travel**".

Page 4, line 22, delete "architectural".

(Reference is to HB 1045 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

BISCHOFF, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred House Bill 1046, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 8, nays 0.

BISCHOFF, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1059, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 6, after line 30, begin a new paragraph and insert:

"SECTION 6. IC 15-3-3.5-2 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, unless otherwise provided:

(1) The term "active ingredient" means:

(A) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient that will:

- (i) prevent;
- (ii) destroy;
- (iii) repel; or
- (iv) mitigate;

insects, nematodes, fungi, rodents, weeds, or other pests;

(B) in the case of a plant regulator, an ingredient that, through physiological action, will accelerate or retard the rate of growth or rate of maturation or ~~otherwise~~ alter the behavior of:

- (i) ornamental or crop plants; or
- (ii) the produce of ornamental or crop plants;

(C) in the case of a defoliant, an ingredient that will cause the leaves or foliage to drop from a plant; ~~and~~

(D) in the case of a desiccant, an ingredient that will artificially accelerate the drying of plant tissue; ~~and~~

**(E) in the case of a nitrogen stabilizer, an ingredient that will prevent or hinder the process of nitrification, denitrification, ammonia volatilization, or urease production through an action affecting soil bacteria.**

(2) The term "adulterated" means a pesticide that has its strength or purity fall below the professed standard or quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the pesticide product or if any valuable constituent of the pesticide product has been wholly or in part abstracted.

(3) The term "antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment.

(4) The term "board" means the Indiana pesticide review board created by this chapter to collect, analyze, and interpret information on matters relating to the use of pesticides.

(5) The term "defoliant" means any substance or mixture of substances intended to cause leaves or foliage to drop from a plant with or without causing abscission.

(6) The term "desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.

(7) The term "device" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating fungi, weeds, nematodes, or other pests as may be designated by the board. The term does not include:

- (A) equipment used for the application of pesticides when sold separately from the pesticides;
- (B) firearms; or
- (C) simple mechanical devices, such as barriers, traps, or adhesives, or other simple contrivances that are not subject to this chapter as determined by the pesticide review board.

(8) The term "distribute" means to offer for sale, sell, exchange, barter or otherwise supply or offer to supply pesticide products.

(9) The term "fungi" means all non-chlorophyll-bearing thallophytes (all non-chlorophyll-bearing plants of a lower order than mosses and liverworts), including rusts, smuts, mildews, molds, yeasts, bacteria, and viruses, except those on or in living man or other animals.

(10) The term "fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi.

(11) The term "herbicide" means any substance or mixture of substances intended for preventing, destroying,

repelling, or mitigating any weed.

(12) The term "highly volatile herbicide" means those herbicides that the board has determined to be capable of emitting vapors that may cause serious injury to desired plants by reason of movement of the vapors from the area of application of the herbicide to areas inhabited by the desired plants.

(13) The term "inert ingredient" means an ingredient that is not an active ingredient.

(14) The term "ingredient statement" means ~~either:~~ **any of the following:**

(A) A statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide. ~~or~~

(B) A statement of the name of each active ingredient in decreasing order of abundance and the total percentage of active ingredients, together with the name of each and total percentage of the inert ingredients, if any, in the pesticide. ~~except clause (A) shall apply if the preparation is highly toxic to man; determined under section 10 of this chapter; and~~

in addition to clause (A) and clause (B); if a pesticide contains arsenic in any form; a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

(15) The term "insect" means any small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six (6) legged, usually winged forms, including beetles, bugs, bees, flies, and other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, including spiders, mites, ticks, centipedes, and wood lice.

(16) The term "insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects that may be present in any environment.

(17) The term "label" means the written, printed, or graphic matter on, or attached to, a pesticide product or the immediate container of the pesticide product, and any outside container or wrapper of the retail package of the pesticide product.

(18) The term "labeling" means all labels and other written, printed, or graphic matter:

(A) upon the pesticide product or any of its containers or wrappers;

(B) accompanying the pesticide product at any time; or

(C) to which reference is made on the label or in literature accompanying the pesticide product, except when accurate, nonmisleading reference is made to current official publications of:

(i) the United States ~~Departments~~ **Department** of Agriculture; ~~or~~

(ii) the United States **Department** of Interior;

(iii) the United States ~~Public~~ **Department** of Health ~~Service;~~ **and Human Services;**

(iv) the United States **Environmental Protection Agency;**

(v) state experiment stations;

(vi) state agricultural colleges; or

(vii) other similar federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of pesticides.

(19) The term "misbranded" means:

(A) any pesticide product if its labeling bears any statement, design, or graphic representation relative to the pesticide product or to its ingredients that is false or misleading;

(B) any pesticide product:

- (i) if it is an imitation of or is offered for sale under the name of another pesticide product;
  - (ii) if its labeling bears any reference to registration under this chapter;
  - (iii) if the labeling accompanying it does not contain instructions for use that are necessary and, if complied with, adequate for the protection of the public;
  - (iv) if the label does not contain a warning or caution statement that may be necessary and, if complied with, adequate to prevent injury to living man and other vertebrate animals;
  - (v) if the label does not bear an ingredient statement on that part of the immediate container and on any outside container or wrapper through which the ingredient statement on the immediate container cannot be clearly read, of the retail package that is presented or displayed under customary conditions of purchase. However, a pesticide product is not misbranded under this definition if the size or form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part that is presented or displayed under customary conditions of purchase and the ingredient statement appears prominently on another part of the immediate container, or outside container or wrapping, or labeling, as permitted by the state chemist;
  - (vi) if any word, statement, or other information required under this chapter or the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) to appear on the labeling is not prominently placed on the labeling with conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in terms as to render it likely to be read and understood by the average individual under customary conditions of purchase and use;
  - (vii) if in the case of an insecticide, nematocide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice, it shall be injurious to living man or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying the pesticide;
  - (viii) in the case of a plant regulator, defoliant, or desiccant when used as directed it shall be injurious to living man or other vertebrate animals, or vegetation to which it is applied, or to the person applying the pesticide. However, physical or physiological effects on plants or parts of plants shall not be deemed to be injurious, when this is the purpose for which the plant regulator, defoliant, or desiccant was applied, in accordance with the label claims and recommendations; or
  - (ix) if the immediate container does not clearly display the United States Environmental Protection Agency establishment number indicating the specific location where the pesticide product was produced.
- (20) The term "nematocide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating nematodes.
- (21) The term "nematode" means the invertebrate animals of the phylum nemathelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts also called nemas or eelworms.
- (22) The term "person" means any individual, partnership, association, fiduciary, corporation, or organized group of persons whether incorporated or not.
- (23) The term "pesticide" means:
- (A) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating a pest; and
  - (B) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.
- (24) The term "pesticides for use by prescription only" means any pesticide that the board has found to be more hazardous by one (1) criterion or another than a restricted use pesticide so that any specific use and application shall be determined and prescribed by a qualified pest management specialist approved by the state chemist.
- (25) The term "plant regulator" means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce of ornamental or crop plants, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.
- (26) The term "registrant" means the person registering any pesticide product under this chapter.
- (27) The term "restricted use pesticide" means any pesticide classified as a restricted use pesticide by the administrator of the United States Environmental Protection Agency or a pesticide that the board has determined to be unduly hazardous to persons, animals, plants, wildlife, waters, or lands, other than the pests it is intended to prevent, destroy, control, or mitigate.
- (28) The term "rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal that the board shall declare to be a pest.
- (29) The term "weed" means any plant that grows where the plant is not wanted.
- (30) The term "aquatic ecologist" means a scientist with a degree in, or extensive training in, or experience in at least one (1) of the following:
- (A) Aquatic ecology.
  - (B) Limnology.
  - (C) Invertebrate zoology.
  - (D) Invertebrate ecology.
  - (E) Ichthyology.
  - (F) Aquatic botany.
  - (G) Algology.
  - (H) Primary production ecology.
- (31) The term "terrestrial ecologist" means a scientist with a degree in, or extensive training in, or experience in at least one (1) of the following:
- (A) Animal ecology.
  - (B) Plant ecology.
  - (C) Vertebrate natural history.
  - (D) Herpetology.
  - (E) Ornithology.
  - (F) Mammalogy.
  - (G) Field zoology.
- (32) The term "bulk pesticides" means any pesticide or mixture of pesticides that is transported or held in an immediate reusable container in undivided quantities greater than one hundred (100) pounds net dry weight or fifty-five (55) U.S. gallons liquid measure. The term does not include pesticides that are in the custody of the ultimate user and have been prepared for application by the ultimate user to use in dilution formula strength.
- (33) "Final printed labeling" means the printed label and other labeling that will appear on or accompany a pesticide product.
- (34) "Front panel" means the part of a label that is visible

to a purchaser under normal conditions of sales displays.

(35) "Immediate container" means that part of a container that is in direct contact with a pesticide product.

(36) "Pest" has the meaning set forth in IC 15-3-3.6-2(22).

(37) "Pesticide formulation" means a pesticide product comprised of all active ingredients and inert ingredients.

(38) "Pesticide product" means a pesticide or device offered for distribution or use, including any labeling.

(39) "Produce" means to manufacture, prepare, compound, process, or change the container of a pesticide product or an active ingredient. The term does not include the dilution by individuals of formulated pesticides for the individual's use done according to the directions on a label.

(40) "Wildlife" has the meaning set forth in IC 15-3-3.6-2(29).

SECTION 7. IC 15-3-3.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. ~~It is unlawful for any~~ **Except as provided in section 4 of this chapter, a person to may not** produce, distribute, display, sell, or offer for sale within ~~this state~~ **Indiana** or deliver for transportation or transport in intrastate commerce or between points within ~~this state~~ **Indiana** through any point outside ~~this state~~ **Indiana** any of the following:

(1) Any pesticide product that has not been registered under section 5 of this chapter.

(2) Any pesticide product if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration.

(3) A pesticide product if the composition of the product differs from the composition as represented in connection with its registration. However, at the discretion of the state chemist, a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product.

(4) Any pesticide (except a bulk pesticide or a pesticide in a container **specifically** designed and constructed to accommodate the return and refill of ~~greater than fifty-five (55) gallons liquid or one hundred (100) pounds of dry material~~) **the container** unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to that container, and to any outside container or wrapper of the retail package through which the required information on the immediate container cannot be clearly read, a label bearing:

(A) the name and address of the manufacturer, registrant, or person for whom manufactured;

(B) the name, brand, or trademark under which the pesticide product is sold; and

(C) the net weight or measure of the content, subject, however, to reasonable variations as the state chemist may permit.

(5) ~~The pesticides commonly known as standard lead arsenate; basic lead arsenate; calcium arsenate; magnesium arsenate; zinc arsenate; zinc arsenite; sodium fluoride; sodium fluosilicate; and barium fluosilicate unless they have been distinctly colored or discolored as provided by rules adopted under this chapter; or any other white powder pesticide that the state chemist, after investigation of and after public hearing on the necessity for action for the protection of the public health and the feasibility of coloration or discoloration; shall, by rule, require to be distinctly colored or discolored unless it has been so colored or discolored. The state chemist may exempt any pesticide to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if the state chemist determines that coloring or discoloring is not necessary for the protection of the public health.~~

(6) **(5)** Any pesticide product that is adulterated or

misbranded.

~~(7) (6)~~ Any pesticide in containers violating rules adopted under section 10(3) of this chapter. Pesticides found in containers that are unsafe due to damage may be seized and impounded.

~~(8) (7)~~ A highly volatile herbicide, ~~(as defined in section 2(12) of this chapter)~~ except on written permission by the state chemist.

~~(9) (8)~~ Any bulk pesticide unless it is accompanied in all transfers of custody or ownership by or held in storage vessels to which is affixed a label bearing the information specified in subdivision (4).

SECTION 8. IC 15-3-3.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The state chemist shall require the submission of the complete formula of any pesticide product, including the confidential:

(1) statement of formula;

(2) analytical methods for the analysis of the pesticide formulation and the analysis of residues of the pesticide product in environmental media; and

(3) analytical standards of the pesticide product.

In the case of a federally registered product, this requirement may be waived.

(b) **The state chemist shall register a pesticide product, if:**

(1) the state chemist determines that the composition of the pesticide product ~~is such as to warrant warrants~~ the proposed claims for it; ~~and if~~

(2) the pesticide product, ~~and~~ its labeling, and other material required to be submitted comply with the requirements of section 5 of this chapter; ~~the state chemist shall register the pesticide product; and~~

(3) ~~the state chemist determines that the person submitting the application for registration has complied with the requirements of this chapter.~~

(c) **The state chemist shall notify the applicant that the pesticide product, labeling, or other material required to be submitted fails to comply with the law if it does not appear to the state chemist determines:**

(1) that the pesticide product is such as to warrant the proposed claims for it ~~the pesticide product~~; or if

(2) the pesticide product, ~~and~~ its labeling, and other material required to be submitted;

do not comply with this chapter.

(d) **If the state chemist notifies an applicant under subsection (c), the state chemist shall notify give** the applicant of the manner in which the pesticide product, labeling, or other material required to be submitted fail to comply with the law so as to afford the applicant an opportunity to make the necessary corrections. If upon receipt of notice, the applicant does not make the corrections, the state chemist may refuse to register the pesticide product.

~~(d) (e)~~ The state chemist, in accordance with the procedures specified in this section, may **deny**, suspend, or cancel the registration of a pesticide whenever the state chemist determines that the:

(1) pesticide product; ~~or its~~

(2) **pesticide product's** labeling; ~~or~~

(3) **the person submitting the application for registration of the pesticide product;**

does not comply with this chapter.

~~(e) Whenever (f) If:~~

(1) an application for registration is refused; or

(2) the state chemist proposes to **deny**, suspend, or cancel a registration;

notice of ~~such~~ the action ~~shall~~ **and information concerning the person's right to obtain a review under section 7.5 of this chapter must** be given to the applicant or registrant. ~~who shall have fifteen (15) days from the date of such notice to request a hearing on the proposed action in accordance with IC 4-21-5.~~

SECTION 9. IC 15-3-3.5-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7.5. (a) A person who is:

(1) regulated under this chapter; and

(2) aggrieved by any decision by the state chemist; may obtain a review by the board, if the person files a written petition with the board not later than thirty (30) days after the state chemist's decision.

(b) The board shall provide a copy of a petition filed under subsection (a) to the state chemist not later than seven (7) days after receiving the petition.

(c) Not more than fifteen (15) days after receiving a petition under subsection (b), the state chemist shall certify and file with the board a transcript of any record related to the petition, including a transcript of any evidence received.

(d) Whenever a hearing is held under this section, the board may designate one (1) or more persons as the board's agent or representative to conduct the hearing. The agent or representative shall conduct the hearing in the manner provided by IC 4-21.5-3.

(e) After hearing the appeal, the board shall affirm, set aside, or modify the action of the state chemist. However, the state chemist's finding of facts that are supported by the substantial evidence is considered conclusive.

(f) A person aggrieved by any action of the board may obtain judicial review under IC 4-21.5-5.

SECTION 10. IC 15-3-3.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) ~~There is created~~ The Indiana pesticide review board consisting is established. The board consists of the following members:

(1) One (1) representative of the state department of health.

~~(2) One (1) representative of the state toxicologist.~~

~~(3) One (1) representative of the state veterinarian.~~

~~(4) (2) One (1) representative of the department of natural resources.~~

~~(5) (3) One (1) representative of the department of environmental management.~~

~~(6) (4) One (1) representative of the Purdue University office of agricultural research programs.~~

~~(7) (5) One (1) representative of the Purdue University cooperative extension service.~~

~~(8) (6) Two (2) ecologists with earned doctorate degrees:~~

(A) one (1) a terrestrial ecologist; and

(B) one (1) an aquatic ecologist.

~~No more than one (1) ecologist may be from a state supported university or college and no Not more than one (1) ecologist may be a plant ecologist.~~

~~(9) (7) One (1) public representative.~~

~~(10) (8) One (1) representative of the pesticide industry.~~

~~(11) (9) Two (2) representatives of producers of agricultural crops or products on which pesticides are applied or that may be affected by the application of pesticides:~~

(A) one (1) of whom represents producers of agronomic crops; and

(B) one (1) of whom represents producers of nonagronomic crops.

~~(12) (10) One (1) public representative from conservation organizations.~~

~~(13) (11) Three (3) qualified scientists, one (1) each in the fields of entomology, plant pathology, and weed science. One (1) scientist must be the representative of either the Purdue University office of agricultural research programs or the Purdue University cooperative extension service.~~

~~(14) (12) Three (3) certified and licensed commercial applicators of pesticides who must represent three (3) different certificate or license categories established under IC 15-3-3.6-5.~~

~~(15) (13) The state chemist, who is an ex officio member~~

and shall serve as a nonvoting member.

~~(16) (14) The pesticide administrator for the office of the state chemist, who shall serve as a nonvoting member.~~

~~(17) (15) The pesticide training coordinator, who shall serve as a nonvoting member.~~

(b) The voting members shall be appointed by the governor for terms of four (4) years and, subject to subsection (d), continue until the member's successor is approved and qualified. Appointments shall be made so that no more than five (5) terms expire annually.

(c) Voting members may be appointed for successive terms at the discretion of the governor.

(d) The governor may remove a voting member of the board prior to the expiration of the member's term for cause.

SECTION 11. IC 15-3-3.5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. ~~Ten (10) (a) Nine (9) members of the board shall constitute a quorum. and~~

(b) Official actions ~~will be~~ are subject to approval by a simple majority of board members present at a called meeting.

(c) The ~~chairman~~ chairperson shall actively participate in all decisions of the board.

SECTION 12. IC 15-3-3.5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. State officials and staff members of state offices as well as Purdue University office of agricultural research programs and cooperative extension service staff members appointed to the board shall serve without compensation but shall be entitled to receive per diem payments at rates and under conditions incident to these positions. The following individuals appointed to the board shall serve without compensation but are entitled to receive per diem payments at rates and under conditions incident to these positions:

(1) State officials.

(2) Staff members of state offices.

(3) Staff members of the Purdue University office of agricultural research programs.

(4) Cooperative extension service staff members.

Other members are entitled to reimbursement for traveling and other expenses as provided in the state Purdue University travel policies and procedures, established by the Indiana Purdue University department of administration transportation and approved by the budget agency. Purdue University vice president of business services.

SECTION 13. IC 15-3-3.5-18, AS AMENDED BY P.L.40-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. The state chemist individually or through the state chemist's agent may do the following:

(1) Enter any public or private premises, including any vehicle of transport during regular business hours: in order

(A) to:

(i) have access to; and to

(ii) obtain samples of;

pesticide products; and

(B) to:

(i) examine; and

(ii) copy;

records relating to their the production, use, transportation, and sale of pesticide products, subject to this chapter and the rules adopted under this chapter.

(2) Enter at ~~at a~~ a reasonable times time in or upon any:

(A) private; or

(B) public property;

for the purpose of inspection and investigating conditions possibly resulting from the use or misuse of a pesticide product.

SECTION 14. IC 15-3-3.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) The examination of pesticide products shall be made under the

direction of the state chemist for the purpose of determining whether the pesticide products comply with ~~the requirements of~~ this chapter.

(b) If it appears after an examination that a pesticide product fails to comply with this chapter, and the state chemist contemplates instituting proceedings against any person, the state chemist shall ~~cause~~ give appropriate notice to ~~be given to~~ the person. ~~Any~~

(c) A person notified under subsection (b) shall be given an opportunity to present the person's views, either orally or in writing, with regard to the contemplated proceedings, ~~and, to the state chemist.~~

(d) If ~~in the opinion of~~ the state chemist it ~~shall appear that~~ determines that a person violated this chapter, ~~has been violated by the person; then subject to subsection (e),~~ the state chemist ~~shall may~~ refer the facts to the prosecuting attorney for the county in which the violation occurred with a copy of the results of the analysis or the examination of the pesticide product. ~~Nothing in~~

(e) This chapter may **not** be construed as requiring the state chemist to report for prosecution or for the institution of other proceedings minor violations of this chapter whenever the state chemist believes that the public interests will be best served by other action.

SECTION 15. IC 15-3-3.5-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. (a) Except as provided in subsection ~~(c); (f), whenever if the state chemist:~~

(1) finds any pesticide product: is found by the state chemist

(A) upon any premises; or

(B) in any means of conveyance;

where it is held for purposes of, or during or after, distribution, ~~or~~ sale, ~~or~~ use; and

(2) there is reason to believe determines that the pesticide product:

(A) is in violation of this chapter; or ~~that the pesticide product~~

(B) has been or is intended to be:

(i) distributed; ~~or~~

(ii) sold; ~~or~~

(iii) used;

in violation of this chapter;

the state chemist may issue a written or printed stop sale, use, or removal order to the owner or custodian of the pesticide product; and after receipt of the order, the owner or custodian may not sell, use, or remove the pesticide product described in the order except in accordance with the provisions of the order or until the pesticide product is released in writing by the state chemist or by order of a proper court: an order under subsection (b).

(b) The state chemist may issue a written or printed:

(1) stop sale;

(2) use; or

(3) removal;

order to the owner or custodian of a pesticide product.

(c) Except as provided in subsection (d), after receiving an order under subsection (b), the owner or custodian of a pesticide product may not:

(1) sell;

(2) use; or

(3) remove;

the pesticide product described in the order.

(d) The owner or custodian of a pesticide product who receives an order under subsection (b) may:

(1) sell;

(2) use; or

(3) remove;

the pesticide product only in accordance with the provisions of the order or until the pesticide product is released in writing by the state chemist or by order of a court.

~~(b)~~ (e) When a stop sale order is issued under subsection (a); (b), the state chemist shall immediately issue a notification to the dealer or registrant of the pesticide product that states the following:

(1) A stop sale order has been issued on the pesticide product.

(2) A reference to the specific language of the law or ~~regulation rule~~ that is believed to have been violated.

~~(c)~~ (f) Labels of pesticide devices may be submitted to the state chemist for approval before the sale of the pesticide device.

SECTION 16. IC 15-3-3.5-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 35. ~~(Delegation of Duties) An authority~~ The state chemist may delegate to an employee or agent any function that is vested in the state chemist by virtue of the provisions of this chapter. ~~may with like force and effect be executed by his authorized agent or agents.~~

SECTION 17. IC 15-3-3.6-2, AS AMENDED BY P.L.40-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter:

(1) "Agricultural commodity" means any plant, or part of a plant, and animals or animal products produced primarily for sale, consumption, propagation, or other use by man or animals.

(2) "Animal" means all vertebrate and invertebrate species, including man and other mammals, birds, fish, and shellfish.

(3) "Beneficial insects" means insects that, during some part of their life cycles, are effective pollinators of plants, are parasites or predators of pests, or are otherwise useful to man.

(4) "Board" means the Indiana pesticide review board established by IC 15-3-3.5.

(5) "Certified applicator" means any individual who is certified under this chapter as qualified to use or supervise the use of pesticides and has been issued a certificate as evidence of the individual's qualifications.

(6) "Private applicator" means a certified applicator who uses or supervises the use of pesticides for purposes of producing any agricultural commodity on property owned, rented, or managed by the employer or the applicator, if applied without compensation on the property of another person.

(7) "Commercial applicator" means a certified applicator, whether or not a private applicator with respect to some uses, who uses or supervises the use of pesticides for any purpose or on any property other than as provided by subdivision (6).

(8) "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(9) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(10) "Device" means any instrument or contrivance, other than a firearm, that is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life other than man, bacteria, virus, or other microorganism on or in living man or other living animals. This term does not include equipment used for the application of pesticides when sold separately from the pesticides.

(11) "Distribute" means to offer for sale, sell, exchange, barter, or otherwise supply or offer to supply a pesticide.

(12) "Environment" includes water, air, land, and all plants and man and other animals living in water, air, or on land and the interrelationships that exist among these.

(13) "Equipment" means any type of ground, water, or aerial apparatus or contrivance using motorized,

mechanical, or pressurized power, used to apply any pesticide.

(14) "Fungus" means any nonchlorophyll-bearing plant of a lower order than mosses and liverworts, including rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals, and those on or in processed food, beverages, or pharmaceuticals.

(15) "Insect" means any small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six (6) legged, usually winged forms, including beetles, bugs, bees, flies, and other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, including spiders, mites, ticks, centipedes, and wood lice.

(16) "Licensed pesticide business" means any licensed person that owns, operates, or manages a business that is engaged in or professes to be engaged in:

(A) using any pesticide, including restricted use pesticides; or

(B) making diagnostic inspections or reports to determine infestations of wood destroying pests.

(17) "Licensed applicator for hire" means any licensed certified commercial applicator who is employed by a licensed pesticide business to use or to supervise the use of any pesticide on the property of another and who has assumed direct responsibility for the use or supervision of the use of pesticides by the business.

(18) "Licensed public applicator" means a licensed certified commercial applicator who uses or supervises the use of a restricted use pesticide as an employee of a state agency, municipal corporation, or other governmental agency. The term includes a commercial applicator using a pesticide in a potentially hazardous situation or site as determined by the board.

(19) "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda. These are unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts. Nematodes may also be called nemas or eelworms.

(20) "Permit" means a written certificate issued by the state chemist or the state chemist's authorized agent to a private applicator, authorizing the purchase, possession, or use of restricted use pesticides.

(21) "Person" means any individual, partnership, association, fiduciary, corporation, or any organized group of persons whether incorporated or not.

(22) "Pest" means:

(A) any insect, rodent, nematode, fungus, or weed; or

(B) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganisms on or in living man or other living animals) that is declared to be a pest by the administrator of the United States Environmental Protection Agency or by the board.

(23) "Pesticide" means:

(A) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; or

(B) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(24) "Plant regulator" means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation or for otherwise altering the behavior of plants or the produce of plants. The term does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant

inoculants, or soil amendments.

(25) "Property" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, **vehicles**, and machinery, appurtenant to or situated on land and water areas, fixed or mobile, including any used for transportation.

(26) "Restricted use pesticide" means:

(A) any pesticide classified as restricted by the Administrator of the United States Environmental Protection Agency; or

(B) a pesticide that the board has determined to be unduly hazardous to persons, animals, plants, wildlife, waters, or lands other than the pests the pesticide is intended to prevent, destroy, control, or mitigate.

(27) "Unreasonable adverse effects on the environment" means an unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(28) "Weed" means any plant which grows where it is not wanted.

(29) "Wildlife" means all living things that are not human, domesticated, or pests. This term includes mammals, birds, reptiles, and aquatic life.

(30) "Certificate of financial responsibility" means a notarized statement from an officer of a bank or other financial institution attesting to the fact that a licensee under this chapter has adequate financial resources equal to the amount of liability insurance or bonding required by rule under section 13 of this chapter to protect persons who may suffer legal damages as a result of the applicator's pesticide operations or the pest inspector's inspections.

(31) "Registered pesticide dealer" means any person who distributes any restricted use pesticide.

(32) "Licensed applicator not for hire" means a licensed certified commercial applicator who is employed by a private employer to use or supervise the use of a restricted use pesticide only on the property of the employer. The term includes a commercial applicator using a pesticide in a potentially hazardous situation or site as determined by the board.

(33) "Pesticide consultant" means a person engaged in the retail sale of pesticides who:

(A) offers or supplies technical advice to;

(B) aids; or

(C) makes recommendations to;

another person concerning the use of a pesticide as part of business.

(34) "Pesticide formulation" means a pesticide product comprised of all active ingredients and inert ingredients.

(35) "Pesticide product" means a pesticide or device offered for distribution or use, including any labeling.

(36) "Registered technician" means a person who:

(A) is not licensed under this chapter;

(B) has registered with the state chemist; and

(C) is authorized to engage in pesticide use and related activities under the direct supervision of a licensed and certified applicator.

(37) "Use" means an act of handling, releasing, or exposing individuals or the environment to a pesticide. The term includes the following:

(A) Application or supervision of an application of a pesticide, including mixing or loading the pesticide.

(B) Storage of pesticides and pesticide containers by the intended applicator of the pesticides.

(C) Transportation of pesticides and pesticide containers by the intended applicator of the pesticides.

(D) Disposal of pesticides and pesticide containers by the intended applicator of the pesticides.



(38) "Licensed pest inspector" means an individual licensed under this chapter to make diagnostic inspections or reports to determine infestations of wood destroying pests on the property of another person and meets the requirements under section 13 of this chapter.

SECTION 18. IC 15-3-3.6-6, AS AMENDED BY P.L.40-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) **Subject to section 10 of this chapter**, a person may not engage in or profess to engage in the business of:

- (1) using a pesticide; or
- (2) making diagnostic inspections or reports to determine infestations of wood destroying pests;

on the property of another for hire at any time without a pesticide business license issued by the state chemist. The state chemist shall require an annual license fee of forty-five dollars (\$45) for each pesticide business license **that is issued**.

(b) A pesticide business license must be obtained for each business location from which pesticide use or application is conducted.

(c) The application for a license ~~shall be made~~ **must be** on a form provided by the state chemist. Each application ~~shall~~ **must** contain information necessary for the administration of this chapter.

(d) The state chemist may not issue a pesticide business license until the applicant or a pesticide applicator in the applicant's hire who uses or supervises the use of a pesticide on the property of another is certified by passing an examination to demonstrate to the state chemist the applicant's or applicator's knowledge of the:

- (1) use of pesticides under the category for which the applicant or applicator has applied; and ~~the applicant's or applicator's knowledge of the~~
- (2) nature and effect of pesticides the applicant or applicator may apply under the categories.

At least one (1) licensed applicator for hire must be associated with each location from which pesticides are used for hire.

(e) The state chemist may renew any **pesticide** business license.

(f) **Subject to subsections (a), (b), (c), and (d) and section 14 of this chapter**, if:

- (1) the state chemist finds the applicant qualified to engage in the business of using pesticides **or making diagnostic inspections or reports to determine infestations of wood destroying pests** on the property of another;
- (2) the applicant files evidence of financial responsibility required under section 13 of this chapter; and
- (3) the applicant applying for a license involving aerial application of pesticides has met all of the requirements of:
  - (A) the Federal Aviation Administration;
  - (B) the Indiana department of transportation; and
  - (C) any other applicable federal or state statutes or regulations to operate the equipment described in the application;

the state chemist ~~shall~~ **may** issue a pesticide business license limited to the categories for which the applicant or a pesticide applicator in the applicant's hire is qualified. The license ~~shall~~ **expire** ~~expires~~ January 1 of the year following issue unless it has been invalidated, revoked, or suspended earlier by the state chemist. ~~Any~~ **A** surety bond or certificate of liability insurance in force or certificate of financial responsibility required under section 13 of this chapter must be maintained and in effect on a continuing basis.

(g) The state chemist may limit a license or the operation of a business to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified.

(h) If a license is not issued as applied for, the state chemist shall inform the applicant in writing of the reasons the license was not issued.

SECTION 19. IC 15-3-3.6-8.1, AS AMENDED BY P.L.40-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8.1. (a) A person applying for a license described under section 7, 7.1, or 8 of this chapter must:

- (1) submit an application to the state chemist on a form provided by the state chemist;
- (2) pass the appropriate examination provided under section 5 of this chapter;
- (3) except for a person applying for a licensed public applicator's license, submit a fee of forty-five dollars (\$45) to the state chemist; and
- (4) if the person will engage in the aerial application of pesticides, submit proof to the state chemist that the person has satisfied aerial application requirements under applicable state and federal laws.

(b) **Subject to section 14 of this chapter**, if a person meets the requirements under subsection (a), the state chemist ~~shall~~ **may** issue the appropriate license to the person.

(c) If the state chemist does not issue a license to a person ~~that~~ **who** applied for a license described under subsection (a), the state chemist shall inform the person in writing of the reason the license was not issued.

(d) A person ~~that~~ **who** has been issued a license under subsection (b):

- (1) shall notify the state chemist in writing within ten (10) days after a change in or termination of the person's employment as a licensed applicator for hire, a licensed applicator not for hire, or a licensed public applicator; and
- (2) may apply to the state chemist to transfer or amend the person's license by submitting an updated application form described under subsection (a)(1).

(e) A license issued under subsection (b):

- (1) expires January 1 of each year; and
- (2) **subject to section 14 of this chapter**, may be renewed by the person holding the license if the person:

(A) submits a renewal application on a form provided by the state chemist; and

(B) except for a person renewing a licensed public applicator's license, pays a forty-five dollar (\$45) renewal fee;

before January 1.

SECTION 20. IC 15-3-3.6-13, AS AMENDED BY P.L.40-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The state chemist may not issue a pesticide business license or a pest inspector license until the applicant for the license has furnished a surety bond, a certificate of liability insurance in force, or a certificate of financial responsibility to protect persons who may suffer legal damages as a result of the pesticide operations or pest inspections of the applicant. If the surety bond, liability insurance, or financial responsibility is not maintained at all times during the licensing period, the pesticide business license, pest inspector license, and any associated commercial applicator licenses **and technical registrations** are invalid. The applicant may not engage in or profess to be engaged in the business of using pesticides or pest inspection until the financial responsibility is **brought into** compliance and the applicant's license is reinstated by the state chemist.

(b) ~~Nothing in This chapter~~ **relieves** ~~does not relieve~~ any person from liability for any damage to the person or property of another caused by the use of pesticides even though the use conforms to the rules adopted under this chapter.

SECTION 21. IC 15-3-3.6-14, AS AMENDED BY P.L.40-2006, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. Subject to section 14.5 of this chapter, the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on a person for a violation under this chapter. The state chemist may also deny,

suspend, revoke, or modify any provision of any license, permit, registration, or certification issued under this chapter if the state chemist finds that the applicant or the holder of a license, permit, registration, or certification has committed any of the following acts, each of which is a violation of this chapter:

- (1) Made false or fraudulent claims **either verbally or** through any media misrepresenting the effect of pesticides or methods to be ~~utilized~~ **used**.
- (2) Recommended, used, or supervised the use of any registered pesticide in a manner inconsistent with its labeling approved by the United States Environmental Protection Agency or Indiana state registration for that pesticide, or in violation of the United States Environmental Protection Agency or Indiana state restrictions on the use of that pesticide.
- (3) Used known ineffective or improper pesticides **or known ineffective amounts of pesticides**.
- (4) Operated faulty or unsafe equipment.
- (5) Operated in a careless or negligent manner.
- (6) Neglected or, after notice, refused to comply with this chapter, the rules adopted under this chapter, or of any lawful order of the state chemist **or the board**.
- (7) Refused or neglected to:
  - (A) keep and maintain the records required by this chapter; or ~~to~~
  - (B) make reports and supply information when required **or requested by the state chemist in the course of an investigation or inspection**.
- (8) Made false or fraudulent records, invoices, or reports.
- (9) Engaged in or professed to be engaged in the business of:
  - (A) using a pesticide; or
  - (B) making a diagnostic inspection to determine infestations of a wood destroying pest;
- for hire on the property of another without having a pesticide business license.
- (10) Used a restricted use pesticide without having an applicator who is licensed or permitted under this chapter in direct supervision.
- (11) Used fraud or misrepresentation in making an application for, or renewal of, a license, permit, registration, or certification.
- (12) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification.
- (13) Aided or abetted a person to evade the provisions of this chapter, conspired with a person to evade the provisions of this chapter, or allowed a license, permit, registration, or certification to be used by another person.
- (14) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests.
- (15) Impersonated any federal, state, county, or city inspector, investigator, or official.
- (16) Knowingly purchased or used a pesticide that was not registered under IC 15-3-3.5.
- (17) Failed to continuously maintain financial responsibility required under section 13 of this chapter **or to provide proof of financial responsibility to the state chemist when requested**.
- (18) **Intentionally altered a duly issued license, permit, registration, or certification.**
- (19) **Recklessly, knowingly, or intentionally impeded or prevented the state chemist or the state chemist's agent from performing a duty of the state chemist.**

SECTION 22. IC 15-3-3.6-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) A person who **recklessly, knowingly, or intentionally**:

- (1) violates this chapter; or
- (2) impedes ~~hinders~~, or prevents the state chemist or the

state chemist's ~~authorized agent in performance from performing a duty~~ of the state ~~chemist's duty~~ **chemist**; commits a Class C misdemeanor.

(b) A person who **recklessly**, knowingly or intentionally:

- (1) violates section 14(9) of this chapter after the state chemist has issued written notification to that person regarding a previous violation of section 14(9) of this chapter; **or**
- (2) **physically assaults the state chemist or the state chemist's agent while performing a duty of the state chemist**;

commits a Class A misdemeanor.

(c) The state chemist may bring an action to enjoin the violation or threatened violation of this chapter or ~~any a rule made~~ under this chapter. A court may not allow the recovery of damages for ~~an~~ administrative action taken **under this subsection** if the court finds that there was probable cause for the action.

SECTION 23. IC 15-3-3.6-18, AS AMENDED BY P.L.40-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) The state chemist may enter upon any public or private property at reasonable times, in order to do the following:

- (1) Observe the use and application of a pesticide.
- (2) Inspect ~~any~~ equipment subject to this chapter.
- (3) Inspect and sample property actually or reported to be exposed to pesticides.
- (4) Inspect storage or disposal areas.
- (5) Inspect or investigate complaints of injury to humans or property.
- (6) Sample pesticides being used or to be used.
- (7) Inspect and obtain copies of pesticide sale, distribution, purchase, use, storage, and disposal records.

(b) ~~If the state chemist is denied access to any property for the purposes set forth in this chapter,~~ The state chemist may, upon showing a need, apply to any court ~~of competent with jurisdiction~~ for a search warrant authorizing access to the property. ~~for said purposes.~~ The court may, ~~upon such after receiving the application and after finding a need,~~ issue the search warrant for the purposes requested.

(c) ~~Each A~~ prosecuting attorney to whom ~~any a~~ violation of this chapter is reported may institute and prosecute the violation in a court ~~of competent with jurisdiction~~ of that county without delay. The state chemist may apply for and the court grant a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or any rule adopted under this chapter notwithstanding the existence of other remedies at law. The injunction may be issued without bond.

SECTION 24. IC 15-3-3.6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) Commercial applicators and licensed pest inspectors shall maintain records ~~with respect to applications concerning:~~

- (1) **the application** of restricted use pesticides; ~~and~~
- (2) diagnostic inspections to determine infestations of wood destroying pests; ~~and~~
- (3) **any relevant information that the state chemist may deem determines by rule is necessary to further for the purposes of this chapter.** ~~may be specified by rule.~~

(b) The state chemist may require certified applicators to maintain records related to applications of state restricted pesticide uses. ~~These~~

(c) Records ~~shall required under this section must~~ be kept for a period of two (2) years from the date of the **inspection or the application of the pesticide, to which the records refer, and or for the time specified by rule.**

(d) The state chemist shall be provided access to the records by the commercial applicator **or licensed pest inspector.**

SECTION 25. IC 15-3-3.6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. (a) The state

chemist may ~~by regulation~~ **adopt rules** to require the reporting of significant pesticide accidents or incidents.

(b) Any person:

(1) claiming damages from a pesticide accident ~~shall~~ **or incident; and**

(2) **requesting an investigation of those damages by the state chemist;**

**must file a claim on a form provided by a report with the state chemist. This report must be filed within sixty (60) days after the date that damages occurred.** If a growing crop is alleged to have been damaged, the report must be filed before twenty-five percent (25%) of the crop has been harvested. ~~The state chemist shall, within seven (7) days after the receipt of such statement, notify the licensee and the owner or lessee of the property or other persons who may be charged with the responsibility for the damages claimed; and furnish copies of such statements as may be requested.~~

SECTION 26. IC 15-3-3.6-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. The state chemist may cooperate with, and enter into agreements with, any other agency of ~~this the~~ state, any federal agency, or any other state agency or nongovernmental organization for the purpose of carrying out this chapter to:

- (1) secure uniformity of rules;
- (2) cooperate in the enforcement of the federal pesticide control laws through the use of state or federal personnel and facilities and to implement cooperative enforcement programs;
- (3) develop and administer state plans for certification of applicators consistent with federal standards;
- (4) contract or cooperate with agencies or organizations for the purpose of training applicators;
- (5) contract for monitoring pesticides; ~~for the national plan;~~
- (6) prepare and submit state plans to meet federal certification standards;
- (7) ~~regulate certified applicators; administer and enforce requirements under this chapter; and~~
- (8) make reports to the United States Environmental Protection Agency as the agency ~~may require.~~ **requires.**

SECTION 27. IC 15-3-3.6-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. The state chemist may waive all or part of the requirements provided for in sections 3, 5, 6, 7, 7.1, 8, 8.1, 8.3, 9, **10.1**, and 12 of this chapter on a reciprocal basis with any other state agency or federal agency that has substantially the same standards.

SECTION 28. IC 15-3-3.6-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24. (a) A person may not transport, store, or dispose of any pesticide or pesticide containers in a manner ~~as to that may~~ cause injury to humans, beneficial vegetation, crops, livestock, wildlife, beneficial insects or to pollute any waterway in a way harmful to any wildlife in a waterway.

(b) The board may adopt rules governing the storage and disposal of pesticides or pesticide containers. In determining these standards, the board shall take into consideration any regulations issued by the United States Environmental Protection Agency.

SECTION 29. IC 15-5-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. A commercial feed, except a custom-mixed feed, ~~shall~~ **must** be accompanied by a label bearing the following information:

- (1) The net weight.
- (2) The product name and the brand name, if any, under which the commercial feed is distributed.
- (3) The guaranteed analysis stated in ~~such the~~ terms **as that the director, state chemist, by regulation rule,** determines **is are** required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by

laboratory methods such as the methods published by ~~the (Association of Official Analytical Chemists: AOAC International.~~

(4) The common or usual name of each ingredient used in the manufacture of the commercial feed. ~~Provided, That However, the director, state chemist, by regulation rule,~~ may:

- (i) (A) permit the use of a collective term for a group of ingredients ~~which that~~ perform a similar function; or
- (ii) (B) ~~exempt such a commercial feeds, feed or any group thereof, of commercial feeds from this the~~ requirement **of for** an ingredient statement if ~~he the~~ **the state chemist** finds that such a statement is not required in the interest of consumers.

(5) The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.

(6) Adequate directions for use for: ~~att~~

- (A) commercial feeds containing drugs; and ~~such~~
- (B) other feeds **as that the director may require state chemist requires by regulation rule** as necessary for their safe and effective use.

(7) ~~Such~~ Precautionary statements **as that the director state chemist by regulation rule** determines are necessary for the safe and effective use of the commercial feed.

SECTION 30. IC 15-5-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. Custom-mixed feed ~~shall~~ **must** be accompanied by a label, invoice, delivery slip, or other shipping document bearing the following information:

- (1) Name and address of the manufacturer.
- (2) Name and address of the purchaser.
- (3) Date of delivery.
- (4) The product name and brand name, if any, and the net weight of each ~~registered~~ commercial feed used in the mixture, and the common or usual name and net weight of each other ingredient used, and the specific content, stated in terms as required in section 6 of this chapter, of any nutrients and nonnutritive additives added at the request of the purchaser.
- (5) Adequate directions for use for: ~~att~~
  - (A) custom-mixed feeds containing drugs; and ~~for such~~
  - (B) other feeds **as that the director may require state chemist requires by regulation rule** as necessary for their safe and effective use.
- (6) ~~Such~~ Precautionary statements **as that the director state chemist by regulation rule** determines are necessary for the safe and effective use of the custom-mixed feed."

Renumber all SECTIONS consecutively.

(Reference is to HB 1059 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 1.

PFLUM, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1060, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 14-8-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. "Basin" has the following meaning:

- (1) **For purposes of IC 14-25-1, the meaning set forth in section 1.2 of IC 14-25-15-1.**

~~(1)~~ (2) For purposes of IC 14-30-1, the meaning set forth in IC 14-30-1-1.

~~(2)~~ (3) For purposes of IC 14-30-2, the meaning set forth in IC 14-30-2-1.

~~(3)~~ (4) For purposes of IC 14-30-3, the meaning set forth in IC 14-30-3-1.

~~(4)~~ (5) For purposes of IC 14-30-4, the meaning set forth in IC 14-30-4-1."

Page 1, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 3. IC 14-25-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) The general assembly finds that a diversion of water out of the ~~Great Lakes basin, unless conducted under the Great Lakes—St. Lawrence River Basin Water Resources Compact~~, will impair or destroy the Great Lakes. The general assembly further finds that the ~~prohibition regulation~~ of a diversion of water from the ~~Great Lakes basin~~ is consistent with the mandate of the Preamble to and Article 14, Section 1 of the Constitution of the State of Indiana, the United States Constitution, and the federal legislation according to which Indiana was granted statehood.

(b) Water may not be diverted **outside the basin** from that part of the ~~Great Lakes drainage~~ basin within Indiana unless the diversion is:

(1) approved by the governor of each Great Lakes state under 42 U.S.C. 1962d-20 (Water Resources Development Act); **or**

(2) **conducted:**

(A) **after the effective date of; and**

(B) **in accordance with the requirements of; the Great Lakes—St. Lawrence River Basin Water Resources Compact.**

(c) The commission shall adopt rules necessary to implement this section.

SECTION 4. IC 14-25-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) As used in this section, "significant water withdrawal facility" means the water withdrawal facilities of a person that, in the aggregate from all sources and by all methods, has the capability of withdrawing more than one hundred thousand (100,000) gallons of ground water, surface water, or ground and surface water combined in one (1) day. **Subject to subsection (b),** the term does not include:

(1) water withdrawal facilities that function as part of the operation or construction of a landfill; or

(2) water withdrawal facilities located in or on an off-stream impoundment that is principally supplied by a significant water withdrawal facility.

(b) **A water withdrawal facility referred to in subsection (a)(1) or (a)(2) located in the basin (as defined in section 1.2 of IC 14-25-15-1) is subject to the registration requirement of section 4.1.3 of IC 14-25-15-1.**

~~(b)~~ (c) Every person who has a significant water withdrawal facility shall register the facility with the commission on forms provided by the commission that contain the following:

(1) The name and legal address of the registrant.

(2) The source of water supply.

(3) The total capability of the water withdrawal facility.

(4) The total withdrawal capability per day and the amount from each source.

(5) The use to be made of the water, the place of use, and the place of discharge.

(6) The geographic location of the supply source.

(7) The date of registration.

(8) Other information specified by rule.

~~(c)~~ (d) A significant water withdrawal facility must be registered within three (3) months after the facility is completed.

~~(d)~~ (e) The owner of a registered significant water withdrawal facility shall, within three (3) months after the end of each year,

make a verified report to the commission on forms to be provided by the commission of the amounts of water withdrawn during the year.

~~(e)~~ (f) Under rules adopted by the ~~department~~, **commission**, the department may waive the requirement of the information set forth in subsections ~~(b)~~ (c) and ~~(d)~~ (e) with respect to a temporary significant water withdrawal facility."

Page 35, after line 29, begin a new paragraph and insert:

"Sec. 2. (a) **The governor, ex officio, shall:**

(1) **serve as the Indiana administrator of the compact; and**

(2) **appoint at least one (1) alternate under section 2.3 of the compact.**

(b) **The governor shall do the following as administrator:**

(1) **Receive copies of all agreements that are entered into under the compact by the following:**

(A) **This state.**

(B) **Other states.**

(C) **Political subdivisions of this state.**

(2) **Consult with, advise, and aid the states and political subdivisions referred to in subdivision (1) in the formulation of those agreements.**

(3) **Make any recommendations that the governor considers desirable in order to effectuate the purposes of the compact to the following:**

(A) **The general assembly.**

(B) **Legislatures of other states.**

(C) **Governmental agencies of other states.**

(D) **Political subdivisions of this state.**

(4) **Consult with and cooperate with the compact administrators of the states other than Indiana.**

(c) **Pursuant to section 9.2 of the compact, the governor may take actions necessary for the initial organization and operation of the council.**

Sec. 3. **Agencies of this state are authorized to cooperate with the council.**

Sec. 4. (a) **Before casting a vote under section 3.1 of the compact with respect to any regulation that amends or revises the standard of review and decision, the governor or the governor's alternate shall obtain authorization from the general assembly for the vote. The governor or the governor's alternate shall exercise the vote consistent with the terms of the general assembly's authorization.**

(b) **An authorization by the general assembly under subsection (a) must be by adoption of:**

(1) **an act; or**

(2) **a concurrent resolution.**

Sec. 5. **The natural resources commission:**

(1) **except as provided in subdivision (2), may not:**

(A) **adopt rules to establish; or**

(B) **otherwise implement;**

**any mandatory program governing water conservation and efficiency under section 4.2 of the compact;**

(2) **may adopt rules to establish a mandatory program governing water conservation and efficiency under section 4.2 of the compact only if the general assembly adopts an act authorizing the adoption of the rules;**

(3) **shall adopt rules under IC 4-22-2 that implement voluntary water conservation and efficiency programs; and**

(4) **shall adopt rules under IC 4-22-2, which may provide for general permits, for the implementation, administration, and enforcement of article 4 of the compact.**

Sec. 6. **A proposal for an exception to the prohibition in section 4.8 of the compact to transfer water to an area outside the basin shall be managed and regulated using the thresholds established in section 4.9 of the compact.**

Sec. 7. (a) **Except as provided in section 8 of this chapter, a person must, under the rules established under section 5(4)**

of this chapter, obtain a permit from the department for a daily withdrawal in excess of any of the following, calculated on average over any ninety (90) day period:

- (1) Five million (5,000,000) gallons from Lake Michigan surface water.
- (2) Subject to subsection (b), one hundred thousand (100,000) gallons from a salmonid stream.
- (3) For any other surface water or groundwater source, one million gallons (1,000,000).

(b) Notwithstanding 327 IAC 2-1.5-5(a)(3), the salmonid streams subject to subsection (a)(2) are the following:

- (1) Trail Creek and its tributaries downstream to Lake Michigan.
- (2) Galien River and its tributaries in LaPorte County.
- (3) East Branch of the Little Calumet River and its tributaries downstream to Lake Michigan via Burns Ditch.
- (4) St. Joseph River and its tributaries in St. Joseph County from the Twin Branch Dam in Mishawaka downstream to the Indiana/Michigan state line.
- (5) Subject to subsection (c), any other watercourse determined by rule by the commission.

(c) Before adopting a rule under subsection (b)(5), the commission shall seek input from the U.S. Fish and Wildlife Service.

Sec. 8. Except as provided in this section, a withdrawal that does not exceed the amount of a baseline status determination made under section 12 of this chapter is exempt from section 7(a) of this chapter. The director may limit a withdrawal that would reduce flow in a watercourse below the established minimum stream flow.

Sec. 9. Not later than ten (10) years after the compact takes effect under section 9.4 of the compact, the general assembly shall study and make findings and recommendations concerning the following:

- (1) The appropriateness of the permit threshold amounts established in section 7(a) of this chapter considering:
  - (A) advances made under section 1.4 of the compact;
  - (B) findings under IC 14-25-14; and
  - (C) other new water management technology and practices that become available.
- (2) Any changes in those amounts that the general assembly deems warranted.

Sec. 10. (a) The criterion of section 4.11.2 of the compact is met only if the withdrawal or consumptive use will be implemented so as to ensure that the proposal will result in no significant individual or cumulative adverse impacts to the quantity or quality of the waters and water dependent natural resources of either:

- (1) The basin considered as a whole; or
- (2) The Lake Michigan or Lake Erie watershed considered as a whole.

(b) Impacts of a withdrawal or consumptive use on the quantity or quality of waters and water dependent natural resources of more localized areas that affect less than:

- (1) the basin considered as a whole; or
- (2) the Lake Michigan or Lake Erie watershed considered as a whole;

are considered a part of the evaluation of reasonable use under section 4.11.5 of the compact.

(c) When determining whether there will be significant individual or cumulative adverse impacts under this section:

- (1) consideration shall be given to the impacts incurred in a particular tributary or stream reach where those impacts are important to:
  - (A) the basin; or
  - (B) the Lake Michigan or Lake Erie watershed as a whole; and

(2) a judgment shall be made of the nature, degree, scope, and materiality of the impacts and the regional importance of those impacts to:

- (A) the basin; and
- (B) the Lake Michigan or Lake Erie watershed.

11. An applicant may use either of the following methods to provide consumptive use amounts required under article 4 of the compact:

(1) The most current values published for the appropriate sector from:

- (A) the United States Geological Survey;
- (B) the Great Lakes Commission;
- (C) the council; or
- (D) other sources approved by the department.

(2) Site specific calculations for the applicant's facility that are based on standard engineering practices.

Sec. 12. (a) This section governs any status determination of a baseline under section 4.12.2 of the compact for each of the following from the Indiana portion of the basin:

- (1) The total withdrawal capability registered under IC 14-25-7-15(c)(3) is deemed the existing withdrawal approval amount for section 4.12.2.a.i of the compact.
- (2) A consumptive use attributable to a facility described in IC 14-25-7-15(a)(1).
- (3) A facility that diverts water outside the basin.

(b) The department shall make each determination required under subsection (a) following an investigation. Before completing the investigation, the department shall:

- (1) inform the owner of the facility of the amount of any proposed baseline; and
- (2) provide the owner with a period of at least thirty (30) days to offer documentation the owner believes would properly modify the proposed baseline amount.

(c) The department shall provide notice under IC 4-21.5-3-5 of a status determination under this section to the owner of the facility for which the determination is made.

(d) The owner of a facility for which a status determination is made under this section is the only person with standing to seek administrative review of the determination.

Sec. 13. (a) As used in this section, "product":

(1) refers to a product, regardless of whether the product is distributed inside or outside the basin, that:

- (A) is produced in the Indiana portion of the basin; and
- (B) is packaged and intended for intermediate or end-use consumers; and
- (C) includes water:

- (i) withdrawn from the basin; and
- (ii) packaged in containers with a capacity of not more than five and seven-tenths (5.7) gallons.

(b) Any incorporation of water into a product:

- (1) is a consumptive use; and
- (2) does not constitute a diversion for purposes of the compact.

SECTION 6. IC 34-30-2-56.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 56.5. IC 14-25-15-1 (Section 2.8 concerning a person acting under the Great Lakes—St. Lawrence River Basin Water Resources Compact)."

Renumber all SECTIONS consecutively.

(Reference is to HB 1060 as introduced.) and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

DVORAK, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1062, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 36, after "number;" insert **"and"**.  
 Page 2, line 37, delete "and".  
 Page 2, delete line 38.  
 Page 2, line 40, delete "If the".  
 Page 2, delete lines 41 through 42.  
 Page 3, delete lines 1 through 3.  
 Page 3, delete lines 19 through 39, begin a new paragraph and insert:

**"Sec. 7. If a dealer receives a notice from a law enforcement agency to hold architectural salvage material possessed by the dealer, the dealer shall hold the architectural salvage material for at least five (5) business days after the date the dealer receives the notice."**

Page 4, line 8, delete "knowingly or intentionally".

Page 4, line 9, delete "misdemeanor." and insert **"infraction."**

SECTION 2. IC 25-37.5-1-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.3. As used in this chapter, "ferrous metal" means any metal containing a significant quantity of iron or steel.**

SECTION 3. IC 25-37.5-1-0.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.6. (a) As used in this chapter, "nonferrous metal" means any metal that does not contain a significant quantity of iron or steel.**

**(b) The term includes the following:**

**(1) Aluminum.**

**(2) Brass.**

**(3) Bronze.**

**(4) Copper.**

**(5) Lead.**

**(6) Nickel.**

**(7) Zinc.**

**(8) An alloy of a metal listed in subdivisions (1) through (7).**

SECTION 4. IC 25-37.5-1-1, AS AMENDED BY P.L.2-2007, SECTION 349, AND AS AMENDED BY P.L.170-2007, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. (a) When used in this chapter, "valuable metal" means any product made of ~~copper, copper alloy, brass, aluminum, or aluminum alloy~~ ferrous metal or nonferrous metal that is readily used or useable:**

**(1) by a public utility, a railroad, a county, city, or state highway department, a public or private school, or ~~an~~ a postsecondary educational institution; ~~of higher education~~ or**

**(2) on residential or commercial property.**

**(b) As used in this chapter, "valuable metal dealer" means any individual, firm, corporation, limited liability company, or partnership engaged in the business of purchasing and reselling valuable metal either at a permanently established place of business or in connection with a business of an itinerant nature, including junk shops, junk yards, junk stores, auto wreckers, scrap metal dealers or processors, salvage yards, collectors of or dealers in junk, and junk carts or trucks.**

**(c) As used in this chapter, "purchase" means acquiring a valuable metal product or products by a valuable metal dealer in a single transaction of one hundred dollars (\$100) or more for a consideration, but does not include purchases between scrap metal processing facilities (as defined in ~~IC 8-12-1-3(d))~~ IC 8-23-1-36).".**

Page 4, delete lines 39 through 40, begin a new paragraph and

insert:

**"SECTION 6. An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1062 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

HOY, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1071, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 12 through 16, begin a new line block indented and insert:

**"(3) The county has purchased or will purchase a new voting system to replace a voting system that the county cannot use because the county is unable to obtain technical or other operating support for its current voting system. This subdivision applies only if the purchase of a new voting system is eligible for reimbursement under HAVA."**

(Reference is to HB 1071 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

PIERCE, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred House Bill 1115, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

BISCHOFF, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1118, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

**"SECTION 1. IC 4-33-19-6, AS ADDED BY P.L.227-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008] : Sec. 6. The division shall, on behalf of the department of state revenue or the alcohol and tobacco commission, conduct a license revocation action against a licensed entity for any revocation action authorized by any of the following statutes:**

**(1) IC 6-2.5-8-7(g).**

**(2) ~~IC 7.1-3-18.5-5(e)~~ IC 7.1-3-18.5.**

**(3) IC 7.1-3-23-2(b).**

**(4) IC 7.1-3-23-5 with respect to a violation of IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4."**

Page 2, line 19, delete "The establishment meets the requirements, if any," and insert: **"The sale of alcohol on the premises represents a percentage of annual gross sales of twenty-five percent (25%) or less of all items sold on the premises excluding gasoline and oil products."**

Page 2, delete lines 20 through 22.

Page 3, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 7. IC 7.1-2-3-10, AS AMENDED BY P.L.227-2007, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The commission shall have the power to investigate the violation of a provision of this title and of the rules and regulations of the commission and to report its findings to the prosecuting attorney or the grand jury of the county in which the violation occurred, or to the attorney general.

(b) The commission shall enter a memorandum of understanding with the Indiana gaming commission authorizing the commission's unlawful gaming enforcement division to conduct revocation actions resulting from suspected violations of IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4 as authorized by the following statutes:

- (1) ~~IC 7.1-3-18.5-5(c)~~; **IC 7.1-3-18.5.**
- (2) IC 7.1-3-23-2(b).
- (3) IC 7.1-3-23-5.

(c) A memorandum of understanding entered into under this section must comply with the requirements of IC 4-33-19-8.

(d) The memorandum of understanding required by this section must be entered into before January 1, 2008."

Page 19, line 2, delete "may:" and insert "**may disclose the information:**

- (1) **to the department of state revenue to verify the accuracy of the amount of annual gross sales of food reported to the commission under subsections (b) and (c); and**
- (2) **in any administrative or judicial proceeding to revoke or suspend the holder's permit as a result of a discrepancy in the amount of annual gross sales discovered by the department of state revenue."**

Page 19, delete lines 3 through 12.

Page 19, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 38. IC 7.1-3-8-3, AS AMENDED BY P.L.224-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The holder of a liquor wholesaler's permit shall be entitled to sell liquor at wholesale.

(b) A liquor wholesaler shall be entitled to purchase liquor within this state from a person who holds a distiller's permit, a rectifier's permit, or a liquor wholesaler's permit. A liquor wholesaler also may purchase liquor outside this state from the primary source of supply and, from that source, may transport and import liquor into this state.

(c) A liquor wholesaler may sell, transport, and deliver liquor only to a person who, under this title, holds a:

- (1) liquor retailer's permit;
- (2) supplemental caterer's permit;
- (3) liquor dealer's permit; or
- (4) liquor wholesaler's permit.

The sale, transportation, and delivery of liquor shall be made only from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery, and only in permissible containers and is subject to the rules of the commission fixing the quantity which may be sold or delivered at any one (1) time.

**(d) A liquor wholesaler's bona fide regular employees may purchase liquor from the wholesaler in an amount not to exceed eighteen (18) liters."**

Page 26, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 51. IC 7.1-3-18.5-5, AS AMENDED BY P.L.227-2007, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. ~~(a) Subject to subsection (b), the commission may suspend the certificate of a person who fails to pay a civil penalty imposed for violating IC 35-46-1-10; IC 35-46-1-10.2; IC 35-46-1-11.5; or IC 35-46-1-11.7.~~

~~(b) Before enforcing the imposition of a civil penalty or suspending or revoking a certificate under this chapter, the commission shall provide written notice of the alleged violation to the certificate holder and conduct a hearing. The commission shall provide written notice of the civil penalty or suspension to the certificate holder.~~

~~(c) Subject to subsection (b), the~~ The commission shall revoke the certificate of a person upon a finding by a preponderance of the evidence that the person has violated IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4."

Page 29, delete lines 21 through 42.

Page 30, delete lines 1 through 11.

Page 30, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 62. IC 7.1-3-20-15.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15.9. As used in section 16(j) of this chapter, "tavern" means a permit premises:**

**(1) that meets the definition of restaurant set forth in IC 7.1-3-20-9 but is used primarily for the serving of alcoholic beverages by the drink to the general public; and**

**(2) where food service is secondary to the primary use described in subdivision (1):**

**(A) in the amount of sales; and**

**(B) in the size of the service area where minors are not permitted.**

SECTION 63. IC 7.1-3-20-16, AS AMENDED BY P.L.165-2006, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

(b) The commission may issue a three-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant facility in the passenger terminal complex of a publicly owned airport which is served by a scheduled commercial passenger airline certified to enplane and deplane passengers on a scheduled basis by a federal aviation agency. A permit issued under this subsection shall not be transferred to a location off the airport premises.

(c) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a redevelopment project consisting of a building or group of buildings that:

- (1) was formerly used as part of a union railway station;
- (2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and
- (3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

A permit issued under this subsection shall not be transferred to a location outside of the redevelopment project.

(d) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

- (1) on land; or
- (2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. A permit issued under this subsection may not be transferred.

(e) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner

or lessee, or both, of a restaurant within a renovation project consisting of a building that:

- (1) was formerly used as part of a passenger and freight railway station; and
- (2) was built before 1900.

The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

(f) The commission may issue a three-way permit for the sale of alcoholic beverages for on-premises consumption at a cultural center for the visual and performing arts to a town that:

- (1) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and
- (2) has a population of more than twenty thousand (20,000) but less than twenty-three thousand (23,000).

(g) After June 30, 2005, the commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets the following requirements:

- (1) The district has been listed in the National Register of Historic Places maintained under the National Historic Preservation Act of 1966, as amended.
- (2) A county courthouse is located within the district.
- (3) A historic opera house listed on the National Register of Historic Places is located within the district.
- (4) A historic jail and sheriff's house listed on the National Register of Historic Places is located within the district.

The legislative body of the municipality in which the district is located shall recommend to the commission sites that are eligible to be permit premises. The commission shall consider, but is not required to follow, the municipal legislative body's recommendation in issuing a permit under this subsection. An applicant is not eligible for a permit if, less than two (2) years before the date of the application, the applicant sold a retailer's permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this section or within five hundred (500) feet of the district. A permit issued under this subsection shall not be transferred. The cost of an initial permit issued under this subsection is six thousand dollars (\$6,000).

(h) The commission may issue a three-way permit for the sale of alcoholic beverages for on premises consumption to an applicant who will locate as the proprietor, as owner or lessee, or both, of a restaurant within an economic development area under IC 36-7-14 in:

- (1) a town with a population of more than twenty thousand (20,000); or
- (2) a city with a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand four hundred (27,400);

located in a county having a population of more than ninety thousand (90,000) but less than one hundred thousand (100,000). The commission may issue not more than five (5) licenses under this section to premises within a municipality described in subdivision (1) and not more than five (5) licenses to premises within a municipality described in subdivision (2). The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission. Notwithstanding any other law, the minimum bid for an initial license under this subsection is thirty-five thousand dollars (\$35,000), and the renewal fee for a license under this subsection is one thousand three hundred fifty dollars (\$1,350). Before the district expires, a permit issued under this subsection may not be transferred. After the district expires, a permit issued under this subsection may be renewed, and the ownership of the permit may be transferred, but the permit may not be transferred from the permit

premises.

(i) After June 30, 2006, the commission may issue not more than five (5) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets all of the following requirements:

- (1) The district is within an economic development area, an area needing redevelopment, or a redevelopment district as established under IC 36-7-14.
- (2) A unit of the National Park Service is partially located within the district.
- (3) An international deep water seaport is located within the district.

An applicant is not eligible for a permit under this subsection if, less than two (2) years before the date of the application, the applicant sold a retailers' permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this subsection or within five hundred (500) feet of the district. A permit issued under this subsection may not be transferred. If the commission issues five (5) new permits under this subsection, and a permit issued under this subsection is later revoked or is not renewed, the commission may issue another new permit, as long as the total number of active permits issued under this subsection does not exceed five (5) at any time. The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission.

**(j) After July 1, 2008, the commission may issue not more than five (5) one, two, or three-way permits for the sale of alcoholic beverages for on-premises consumption to an applicant who will locate as the proprietor, as owner or lessee, or both, of a restaurant within an economic development area as determined by resolution of a city or town. The resolution must include findings that the economic development area is:**

- (1) in an area needing retail redevelopment;**
- (2) in the process of being redeveloped or renovated to include restaurants areas; or**
- (3) in an area being funded in part with grants or investments by a unit of government;**

**and that the local economic development goals will be substantially enhanced by additional permits. The resolution must stipulate the boundaries of the economic development area and the number of permits that the commission may issue. A fully executed copy of the resolution must be filed with the commission. A permit issued under this subsection may not be issued to a tavern, as defined in section 15.9 of this chapter, or transferred to a location outside the economic development area. If the commission issues new permits under this subsection and a permit issued under this subsection is later revoked or is not renewed, the commission may issue another new permit, as long as the total number of permits issued under this subsection does not exceed five (5) at any time. An applicant for a permit under this subsection shall place the permit into use within twelve (12) months or the permit shall be subject to administrative revocation by the commission. The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission. Notwithstanding any other law, the minimum bid for a permit under this subsection is seventy-five thousand dollars (\$75,000), and the renewal fee for a permit under this subsection is two thousand dollars (\$2,000). If after the 2010 decennial census the city or town is authorized by the quota provisions of IC 7.1-3-22 to receive additional three-way permits, any three-way permits issued under this subsection must be subtracted from the additional three-way permits that the city or town may be authorized to receive under the**



**quota provisions of IC 7.1-3-22."**

Page 37, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 75. IC 7.1-5-9-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. ~~Sale to Non-Permittee Prohibited.~~ It is unlawful for the holder of a brewer's, distiller's, rectifier's, or a wholesaler's permit of any type to sell an alcoholic beverage to a person who does not hold an appropriate permit under this title. However, this section shall not apply to the sale of an alcoholic beverage to a consumer **or employee** as expressly authorized in this title."

Page 39, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 81. IC 35-46-1-10.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10.2. (a) A retail establishment that sells or distributes tobacco to a person less than eighteen (18) years of age commits a Class C infraction. For a sale to take place under this section, the buyer must pay the retail establishment for the tobacco product. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

(1) If the retail establishment at that specific business location has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of ~~fifty dollars (\$50); two hundred fifty dollars (\$250).~~

(2) If the retail establishment at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of ~~one hundred dollars (\$100); five hundred dollars (\$500).~~

(3) If the retail establishment at that specific business location has had two (2) citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of ~~two hundred fifty dollars (\$250); one thousand dollars (\$1,000).~~

(4) If the retail establishment at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of ~~five hundred dollars (\$500); two thousand dollars (\$2,000).~~

A retail establishment may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours for each specific business location.

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) The following defenses are available to a retail establishment accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph showing that the purchaser or recipient was of legal age to make the purchase.

(2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government showing that the purchaser or recipient was of legal age to make the purchase.

(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused retail establishment sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

- (1) agriculture;
- (2) processing;

- (3) transporting;
- (4) wholesaling; or
- (5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund (IC 7.1-6-2-6).

(h) A person who violates subsection (a) at least six (6) times in any six (6) month period commits habitual illegal sale of tobacco, a Class B infraction."

Renumber all SECTIONS consecutively.

(Reference is to HB 1118 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 3.

VAN HAAFTEN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1120, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 2, delete "2008];" and insert "2010];".

Page 1, line 8, reset in roman "(3) Detergents for use in".

Page 1, line 9, reset in roman "commercial machine dishwashers."

Page 1, line 10, reset in roman "(4)".

Page 1, line 10, delete "(3)".

Page 1, line 12, reset in roman "(5)".

Page 1, line 12, delete "(4)".

Page 1, line 14, reset in roman "(6)".

Page 1, line 14, delete "(5)".

Page 1, line 16, reset in roman "(7)".

Page 1, line 16, delete "(6)".

(Reference is to HB 1120 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

DVORAK, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred House Bill 1121, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 14-8-2-103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 103. (a) "Foundation" refers to the Indiana natural resources foundation.

(b) For purposes of IC 14-20-1, "foundation" refers to:

(1) the Indiana state museum foundation; or

(2) another nonprofit organization established to promote:

- (A) interest in; and
- (B) the use of;

**the Indiana state museum system.**

SECTION 2. IC 14-20-1-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.5. (a) The state museum development fund is established for the purpose of promoting interest in and use of the Indiana state museum.

(b) The state museum development fund shall be administered by the department **or an entity designated by the department.** The state museum development fund consists of revenue generated by exhibit fees, concessions, donations, grants, and other miscellaneous revenue. Money in the state museum development fund at the end of a state fiscal year does not revert to the state general fund.

(c) The balance of the state museum development fund is continuously appropriated and may be used at the request of the department with the approval of the budget agency after review by the

SECTION 3. IC 14-20-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. As used in this chapter, "foundation" refers to:**

- (1) the Indiana state museum foundation; or**
- (2) another nonprofit organization established to promote:**

- (A) interest in; and**

- (B) the use of;**

**the Indiana state museum system.**

SECTION 4. IC 14-20-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The division consists of the following two (2) sections:

- (1) The section of museums.
- (2) The section of historic sites.

~~(b) The division director may not serve as the head of a section of the division.~~

~~(c) An individual may not serve as the head of more than one (1) section of the division.~~

~~(d) (b) There must be a separate line item for each section of the division in each bill appropriating money to the division."~~

Page 2, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 6. IC 14-20-1-26 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 26. (a) The department may, by contract, delegate the management of the:**

- (1) Indiana state museum;**
- (2) state museum development fund; or**
- (3) historic sites property held and managed by the department;**

**to the foundation under terms the department considers advisable.**

**(b) Under a contract entered into under subsection (a), the department may:**

- (1) provide office facilities and administrative support to the foundation;**
- (2) assign department employees to administrative and program duties at the state museum;**
- (3) act in an advisory capacity for the foundation; and**
- (4) accept donations on behalf of the foundation."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1121 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

BISCHOFF, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1171, has had the same under consideration and begs leave to report the same

back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 0.

SUMMERS, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1185, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 7, nays 2.

DVORAK, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1202, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

AUSTIN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1232, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

HOY, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1243, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

AUSTIN, Chair

Report adopted.

### OTHER BUSINESS ON THE SPEAKER'S TABLE

#### Referrals to Ways and Means

The Speaker announced, pursuant to House Rule 127, that House Bills 1059 and 1168 had been referred to the Committee on Ways and Means.

#### HOUSE MOTION

Mr. Speaker: I move that Representative Soliday be added as coauthor of House Bill 1013.

KERSEY

Motion prevailed.

#### HOUSE MOTION

Mr. Speaker: I move that Representative Hoy be added as coauthor of House Bill 1026.

CHEATHAM

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Fry be added as coauthor of House Bill 1035.

ULMER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Fry be added as coauthor of House Bill 1036.

ULMER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Koch be added as coauthor of House Bill 1045.

BISCHOFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Leonard be added as coauthor of House Bill 1046.

BISCHOFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Battles, Behning, and VanDenburgh be added as coauthors of House Bill 1049.

PORTER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Porter, T. Harris, and Cheatham be added as coauthors of House Bill 1051.

CROOKS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Dvorak, Ulmer, and E. Harris be added as coauthors of House Bill 1060.

PELATH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Elrod be added as coauthor of House Bill 1062.

DAY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Moses be added as coauthor of House Bill 1063.

DAY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Oxley be added as coauthor of House Bill 1064.

DODGE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Soliday and Tincher be added as coauthors of House Bill 1067.

HERRELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Austin, Niezgodski, and Knollman be added as coauthors of House Bill 1069.

BUELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative VanDenburgh be added as coauthor of House Bill 1074.

SOLIDAY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Foley, Kersey, and Elrod be added as coauthors of House Bill 1076.

PORTER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Borders and Eberhart be added as coauthors of House Bill 1078.

TORR

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Cherry, Koch, and Welch be added as coauthors of House Bill 1084.

KERSEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Welch be added as coauthor of House Bill 1086.

BURTON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Koch be removed as coauthor of House Bill 1095.

HOY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Dvorak be added as coauthor of House Bill 1102.

CROOKS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Goodin be added as coauthor of House Bill 1105.

TINCHER

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Hinkle be added as coauthor of House Bill 1109.

GOODIN

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Noe be added as coauthor of House Bill 1113.

DEMBOWSKI

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representatives Candelaria Reardon and Steuerwald be added as coauthors of House Bill 1114.

DEMBOWSKI

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Leonard be added as coauthor of House Bill 1121.

BISCHOFF

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Austin be added as coauthor of House Bill 1122.

RESKE

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Candelaria Reardon be added as coauthor of House Bill 1131.

VAN HAAFTEN

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representatives Foley, Behning, and Battles be added as coauthors of House Bill 1137.

GIA QUINTA

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Fry be added as coauthor of House Bill 1140.

MURPHY

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representatives Foley, Behning, and Battles be added as coauthors of House Bill 1146.

GIA QUINTA

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Walorski be added as coauthor of House Bill 1152.

RICHARDSON

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representatives GiaQuinta and Bell be added as coauthors of House Bill 1153.

TYLER

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Buell be added as coauthor of House Bill 1156.

TYLER

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Saunders be added as coauthor of House Bill 1168.

CHEATHAM

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Robertson be added as coauthor of House Bill 1179.

MOSES

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representatives Porter and Behning be added as coauthors of House Bill 1184.

V. SMITH

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative VanDenburgh be added as coauthor of House Bill 1193.

SIMMS

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representatives Walorski and Koch be added as coauthors of House Bill 1197.

PIERCE

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Saunders be added as coauthor of House Bill 1203.

PFLUM

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Soliday be added as coauthor of House Bill 1204.

CROOKS

Motion prevailed.

## HOUSE MOTION

Mr. Speaker: I move that Representative Bell be added as coauthor of House Bill 1213.

BARTLETT

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Walorski and Knollman be added as coauthors of House Bill 1230.

ELROD

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Knollman be added as coauthor of House Bill 1232.

HOY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Austin be added as coauthor of House Bill 1243.

BLANTON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Buell, Stemler, and Cherry be added as coauthors of House Bill 1267.

KLINKER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Stilwell be added as coauthor of House Bill 1269.

NIEZGODSKI

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Cherry be added as coauthor of House Bill 1291.

EBERHART

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Pelath be added as coauthor of House Bill 1292.

BARTLETT

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Stutzman, Leonard, and T. Harris be added as coauthors of House Bill 1307.

BORROR

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Goodin, Steuerwald, and Battles be added as coauthors of House Bill 1316.

MAYS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative M. Smith be added as coauthor of House Bill 1321.

CROUCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Murphy be added as coauthor of House Bill 1329.

RESKE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Reske be added as coauthor of House Bill 1347.

LEONARD

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Soliday and Lehe be added as coauthors of House Bill 1382.

BOSMA

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Hinkle and Dermody be added as coauthors of House Bill 1384.

BOSMA

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Borders, Knollman, and Leonard be added as coauthors of House Bill 1385.

NOE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Bischoff be added as coauthor of House Joint Resolution 3.

ULMER

Motion prevailed.

**Rule Suspension**

The Speaker announced that, with the consent of the members, Rule 117.2 concerning the deadline for filing amendments would be suspended for Tuesday, January 22 to allow amendments to be filed one hour prior to convening of the session rather than two hours.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Summers, the House adjourned at 4:15 p.m., this seventeenth day of January, 2008, until Tuesday, January 22, 2008, at 9:00 a.m.

B. PATRICK BAUER  
Speaker of the House of Representatives

CLINTON McKAY  
Principal Clerk of the House of Representatives